POOR PERSONS DIVORCE—HISTORY AND PROCEDURE - p. 767
THE JUDGMENT IN THE "LOTUS" CASE - - - - - p. 770

# The Solicitors' Journal and Weekly Reporter.

[REGISTERED AS A NEWSPAPER]

VOL. LXXI. No. 41 [PAGES 765 TO 792]. Saturday, Oct. 8, 1927. PRICE (with Supplement and Portrait) 2s.

FIDELITY FIRE

ACCIDENT MOTOR

THE

GUARANTEE SOCIETY

LIMITED.

FIDELITY GUARANTEES IN ALL SITUATIONS OF TRUST

COURT BONDS A SPECIALITY

Head Office: 19, BIRCHIN LANE, LONDON, E.C.3

TELEPHONE: CENTRAL 0813 and 0814

BRANCHES IN PRINCIPAL TOWNS

BURGLARY

CONTINGENCY

MEMORANDUMS AND ARTICLES OF ASSOCIATION.

FORM A—For Large Public Companies, 3s. 6d.
FORM B—For Small Public Companies, 2s. 6d.
FORM C—For Large Private Companies, 3s. 6d.
FORM D—For Small Private Companies, 2s. 6d.

The above draft forms are drawn, settled and revised from time to time by eminent Company Counsel. The printing charges are calculated on a reduced scale if any one of these Forms is adopted and the printing entrusted to

JORDAN & SONS, LIMITED,

*Company Registration Agents*

116-118 Chancery Lane, London, W.C.2.

*City Branch*—13, Broad Street Place, E.C.2.

"LAW NOTES" LENDING LIBRARY

for PRACTITIONERS and STUDENTS.

SUBSCRIPTIONS FROM £1 1S. PER ANNUM. For information—THE LIBRARIAN, "Law Notes" Library, 25 and 26, Chancery Lane, London, W.C.

Telephone: CITY 5627 (2 lines).

MATTHEWS, MATTHEWS & GOODMAN

Auctioneers, Surveyors & Estate Agents.

VALUERS FOR ESTATE DUTY. REAL ESTATE. COMPENSATION CLAIMS. CHATTELS.

RATING SURVEYORS. ESTATE MANAGERS.

Branches: HAMMERSMITH and LEYTONSTONE. 35, BUCKLERSBURY, E.C.4.

For ADMINISTRATION, RECEIVERSHIP, CUSTOMS } BONDS
FIDELITY GUARANTEES

THE

OCEAN

ACCIDENT & GUARANTEE CORPORATION, LIMITED,

36-44, MOORGATE, LONDON, E.C.2.

*Indemnities re:*

LOST DOCUMENTS,
MISSING BENEFICIARIES,
DEFECTS IN TITLE,
FORGED TRANSFERS.

*Other classes of business transacted, e.g.,*

Accident, Burglary, Employers' Liability, Fire, Motor, &c., &c.

Established 1836. Telephone: Holborn 0273.

GENERAL REVERSIONARY AND INVESTMENT CO.

*Assets £1,000,000.*

Reversions and Life Interests Purchased or Loans Granted thereon.

Apply to the ACTUARY, 59, CAREY STREET, W.C.2.

MESSRS. GIBSON & WELDON,

Proprietors of "Law Notes," etc., PREPARE in Class and by Post for the BAR, LAW SOCIETY, and other LEGAL EXAMINATIONS.—Address, 27, Chancery Lane, W.C.2.

JUNE SOLICITORS' EXAMINATIONS, 1927.

At the Final, 71 of the 74 members of the Six and Five months' classes passed, including the John Mackrell Prizeman. At the Honours Examination, three of the five in the First Class, including the First Prizeman, and 11 of the 12 in the Second, were pupils. At the Intermediate, 28 out of the 31 three months' class pupils passed, three in the First Class.

SPILLMAN & CO.,

101, ST. MARTIN'S LANE, W.C.2.

ANTIQUE FURNITURE

also HOUSE and OFFICE FURNITURE.

*VALUATIONS FOR PROBATE.*

# "OYEZ"

*The Hallmark of Efficient Service to the Profession.*

## THE SOLICITORS' LAW STATIONERY SOCIETY, LIMITED.

*Head Offices and Works :* 104-7, FETTER LANE, E.C.4.

22, CHANCERY LANE, W.C.2.
27, 28 & 29, WALBROOK, E.C.4
6, VICTORIA STREET, S.W.1.
ABBEY HOUSE, S.W.1.
49, BEDFORD ROW, W.C.1.
15, HANOVER STREET, W.1.
8-10, POLLEN STREET, W.1.
10, SOUTH SQUARE, W.C.1.

*LIVERPOOL :* 19 & 21, NORTH JOHN STREET.
*MANCHESTER :* 37, CHESTER STREET, OXFORD ROAD.
*GLASGOW :* 66, ST. VINCENT STREET.

# The Solicitors' Journal and Weekly Reporter.

(ESTABLISHED 1857.)

*** Notices to Subscribers and Contributors will be found on page xv.

VOL. LXXI. Saturday, October 8, 1927. No. 41

**Current Topics:** Liverpool Law Society Centenary—The Lord Chief Justice and "Professional" Juries — Research in Law—Legality of Betting on Greyhound Racing — Contracts of Domestic Servants—Aliens: Onus of Proof of Nationality—Conducing to Adultery .. .. .. .. 765
**Poor Persons Divorce—History and Procedure** .. .. .. .. 767
**The Restoration of Life and Other Interests** .. .. .. .. 769
**Mr. Cecil Allen Coward, LL.D.** .. 770
**The Judgments in the "Lotus" Case** 770
**Foreign Decrees of Nullity — when Valid in Great Britain** .. .. 772
**A Conveyancer's Diary** .. .. 774
**Landlord and Tenant Notebook** .. 774
**Reviews** .. .. .. .. .. 775
**Points in Practice** .. .. .. 776
**Correspondence** .. .. .. .. 777
**Report of Case** .. .. .. 777
**The Law Society at Sheffield** .. 778
**Centenary of the Incorporated Law Society of Liverpool** .. .. 790
**Legal Notes and News** .. .. 792
**Stock Exchange Prices of Certain Trustee Securities** .. .. .. 792

## Current Topics.

### Liverpool Law Society Centenary.

IN THIS our special Autumn number, we publish, in addition to authenticated articles by distinguished authors, a full account of the proceedings of The Law Society at Sheffield, and of the meetings assembled this week at Liverpool to celebrate the hundredth birthday of the Liverpool Law Society. The proceedings at Sheffield were in all respects markedly successful, but we cannot refrain from commenting on the smallness of the numbers present. It seems an astonishing fact that, of a powerful association of some 10,000 members, less than 200 attend to review the work done during the past year and to indicate the lines to be followed by the Society in the course of the coming session.

The Liverpool Law Society—the fourth oldest Law Society in the land—have a worthy tradition of activity and usefulness. By birth an educational society—a library association—they have during the whole period of their existence taken a live interest in legal education, and they now control, in conjunction with the University of Liverpool, an efficient and respected school of law. But their activities have long ceased to be confined to legal education; they extend to all matters affecting the profession. And it is well known that the views and opinions of the Society command the highest respect in the counsels of The Law Society. We wish the Liverpool Law Society a long lease of happy life in the service of the profession.

### The Lord Chief Justice and "Professional" Juries.

THE LORD CHIEF JUSTICE, in an interview reported in the *Evening Standard*, has been praising the British jury as at present constituted, and deprecating the suggestion, put forward at The Law Society's meeting at Sheffield, for professional jurymen. He finds the unanimity arrived at by a group of twelve persons chosen indifferently an excellent guarantee of justice. The Lord Chief's observations remind us of G. K. CHESTERTON'S forcible remarks on the same subject: "The horrible thing about all legal officials, even the best, about all judges, magistrates, barristers, detectives and policemen, is not that they are wicked (some of them are quite good), not that they are stupid (several of them are quite intelligent), it is simply that they have got used to it. Strictly, they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgment, they only see their own workshop. Therefore, the instinct of Christian civilization has most wisely declared that into their judgments there shall upon every occasion be infused fresh blood and fresh thoughts from the streets. Our civilization has decided, and very justly decided, that determining the guilt or innocence of men is a thing too important to be trusted to trained men. It wishes for light upon that awful matter, it asks men who know no more law than I know, but who can feel the things that I can feel in the jury box. When it wants a library catalogued, or the solar system discovered, or any trifle of that kind, it uses up its specialists. But when it wishes anything done which is really serious it collects twelve of the ordinary men standing round." While we are arguing as to the ideal composition of the jury, the jury, in criminal cases, is rapidly being ousted by the justices. They are becoming a new type of specially appointed jurymen drawn from all classes, deciding by majority instead of unanimity. They are judges of fact taking their law from a specialist clerk, as the jury take theirs from the professional judge. The essentials are not so different, although in one case the legal president declares the law to the lay jury, and in the other the lay judges are instructed in the law by the servant of the court.

### Research in Law.

RESEARCH WORK in England has received but scant encouragement in the past, even in the domain of industry, where its value might be considered as self-evident. We are at last, however, beginning to realise the importance of the subject, if, as a nation, we are to hold our own in science and commerce. In the field of law even yet its value has only slowly been appreciated, even among members of the profession. All honour, therefore, is due to the small, but persevering, band of scholars who, quietly and unostentatiously, have pursued their studies to make the past elucidate the present. Of these scholars, Dr. W. C. BOLLAND, whose death occurred last week, was one of the most indefatigable, and to him we owe a number of volumes published by the Selden Society which he edited with that accuracy and ability characteristic of all that he undertook. Work of this kind, throwing light on early law and custom, and enabling us the better to understand later developments, deserves much greater recognition and encouragement than it at present receives, especially when it is borne in mind that those who devote their lives to it, as BOLLAND did wholeheartedly, do so almost entirely for love of the pursuit of knowledge. In the material sense research in law may not pay, but in the best sense it has already yielded, and it will continue to yield, a rich and ever-increasing harvest.

### Legality of Betting on Greyhound Racing.

THE HEARING of the informations at the West London Police Court against a bookmaker using the greyhound course at the White City for the purpose of betting with persons

resorting thereto stands adjourned till the 28th instant, when they will be heard with further summonses granted against the Greyhound Racing Association. The alleged offence is against the Betting Act, 1853. The whole question seems to be whether there is, or is not, such localisation of the business of betting by individual bookmakers, as to take them out of the protection of *Powell* v. *Kempton Park Racecourse Co., Ltd.* (1899), A.C. 143. No distinction is drawn in the Betting Act between one kind of sporting event and another, and the express saving for grounds used for horse-racing in s. 2 of the Street Betting Act, 1906, does not, so far as we can see, affect the issue, though there has been talk in the daily press of its relevancy. There will no doubt be an interesting argument upon the application of the law to the particular facts which will be given in evidence at the hearing. Whether a decision, when obtained, can have any practical effect, remains to be seen, for, subject to what may be argued by learned counsel before the magistrate, it would seem very easy for those concerned to put themselves within the protection of the great leading case cited.

## Contracts of Domestic Service.

THERE IS probably no class of contract more frequently and regularly breached, and apparently so far with impunity, than contracts to enter domestic service, the breach being generally a refusal by the servant to enter the master's service, which he or she has previously agreed in writing to enter. Cases of the kind are the common experience of nearly everyone who has to engage domestic help. If the master were to change his mind at the last moment and engage someone else in place of the servant he had already hired, a demand of a month's wages in lieu of notice would at once be made by the servant, and probably complied with. But it is a rule which applies both ways, and an employer has just thought it worth while to sue a servant who had broken her contract, for damages. In giving judgment for the plaintiff for £3 15s., being a month's wages, at Westminster Count Courty, His Honour Judge REEVE said that the plaintiff was entitled to succeed, and commended him for bringing the action on principle, and showing domestic servants that they had no more right than their employers to break their engagements. The defendant without any consideration had broken her contract at the last moment. It is to be hoped that the example shown by the plaintiff in this case may be followed in similar cases. And it may even be extended to bring in third parties, for it is common knowledge that owing to the refusal to undertake domestic service by a large class of young women who can find other employment, the demand so much exceeds the supply that many employers do not hesitate, when they hear that a servant they are seeking is already engaged, to induce them to break their contracts by an offer of higher wages. Recently we heard of a case where two maids had been engaged from the country, had arrived in their situations, and disappeared the following day in response to an urgent telegram from another employer, who was prepared to bribe them by higher wages to break their contracts. Some of these people need to be reminded that the law, as laid down in old cases like *Grinnell* v. *Wells*, 7 M. & G. 1033, renders them liable in damages for inducing a breach of contract.

## Aliens—Onus of Proof of Nationality.

SECTION 1 (4) OF the Aliens Restriction Act, 1914, enacts that if any question arises on any proceedings under any such Order (i.e., an Order in Council made by authority of the Act) or with reference to anything done or proposed to be done under any such Order, whether any person is an alien or not, or is an alien of a particular class or not, the onus of proving that that person is not an alien, or, as the case may be, is not an alien of that class, shall lie upon that person. Such a question can arise only in a judicial proceeding, or at least if it arises otherwise, can receive an effective answer only in a judicial proceeding, and the provision is obviously one of the law of evidence to be administered in courts of justice. When does a question arise? The view sometimes sought to be put to the court is that directly a charge of an offence under the Aliens Acts or Orders is made against an alleged alien, he is at once to be deemed an alien until he proves otherwise. To take an extreme case. Suppose a peer of the realm notoriously descended from native ancestors back to the Conquest, and an ill-disposed police officer charging him as an alien, the peer is to be put to proof of the contrary. The point has only to be stated thus to be shown to be untenable. A question arises in a judicial proceeding, not when A asserts something which B denies, but when A has given some evidence, not conclusive, to show that what he asserts is correct. In most criminal cases A has to add to his proof till it is, until displaced, complete and conclusive. But in aliens cases he has not completely to prove his allegations. When he has offered evidence which raises a doubt of the defendant's nationality, he has done enough. It is then for the defendant to prove affirmatively that he is British. The misapprehension in some minds on the point is due to imperfect comprehension of what is meant by the burden of proof. In a criminal prosecution the general rule is that the prosecutor must prove the guilt of the accused. Exceptionally, he is assisted by shifting the onus at a certain stage in the case, and com pelling the accused to prove his innocence. But the prosecutor has always to begin. He must raise, at least, a doubt of the accused's innocence. It is quite easy to raise such a doubt. If a police officer gives evidence of an interview with the accused in which the latter makes statements which shew that he himself is in doubt of his ability to prove his British nationality, or if such an officer says on oath that he has searched the registers and can find no record of the birth within Britain of the accused, he raises a question. It is hard enough on the accused to start from that point. The view that every person in the country is liable at any moment to be put to proof of his nationality is fantastic. The cases of *Simon* v. *Phillips*, 1916, 32 T.L.R., 243 and *Kopelowitz* v. *McLaughlan*, 1916, 85 L.J., K.B., 1700, show how the enactment is intended to be applied.

## Conducing to Adultery.

A CASE illustrative of difficulties which arise in the matrimonial jurisdiction of justices is reported from one of the metropolitan police courts. A wife sought a provisional order under the Maintenance Orders (Facilities for Enforcement) Act, 1920. The husband went to Australia four years ago in the course of his work as a seaman. He sent his wife no money whatever, communicated with her, indeed, twice only, but spoke of his return when he could get a ship. A few months ago she gave birth to an illegitimate child, the father being a man with whom she had lived in adultery, and with whom she was still "keeping company." That euphemistic expression probably meant that although not living together, they still on occasion had adulterous connexion. Adultery is, of course, a bar to an order unless it has been condoned, connived at, or conduced to by the husband. Neglect to maintain may be a form of conducing to adultery, is indeed recognised as such by s. 2 of the Summary Jurisdiction (Separation and Maintenance) Act, 1925; but it is going a very long way to make an order in favour of a wife who comes to the court while actually living in adultery, and the order was in fact refused. There were two children of the marriage, and it is clear that the father ought to support them. That difficulty might be met by the mother applying for an order under the Guardianship of Infants Act, 1925, giving her the legal custody of those children, and then for a provisional order for their maintenance, to be confirmed and enforced in Australia under the Maintenance Orders (Facilities for Enforcement) Act, 1920. The definition of maintenance order in s. 10 of that Act will include one under the Guardianship of Infants Acts.

# Poor Persons Divorce—History and Procedure.

By A. H. HASSARD-SHORT,
Secretary Poor Persons Committee (London)
(*Author of "The Practice in Poor Persons Cases"*)
AND
C. T. A. WILKINSON
of the Probate and Divorce Registry.
*Editor of "Rayden on Divorce."* (*2nd Edition.*)

## I

### (A) History.

The provision of facilities to enable the poor to conduct litigation is not a modern innovation.

Under the Roman Republic, over 2,000 years ago, the poor litigant was not required to give security for costs, but if he was a defendant he was required to give security for appearance at the trial.

In England the practice of giving special assistance to the poor, to enable them to obtain justice in the courts of law was established at a very early date.

The laws of King Henry I (*circa* A.D. 1115) provided that for poor persons, "*Debet esse rex pro cognato et advocato, si penitus alium non habent.*"

The statute 11 Henry VII c. 12 (1495) after reciting that the King "willeth and intendeth indifferent justice to be had, and ministered according to his common laws to all his true subjects, as well as to the poor as rich, which poor subjects be not of ability or power to sue according to the laws of this land and for the redress of injuries and wrongs to them daily done as well concerning their persons and their inheritance as other causes," enacted that "poor persons" having cause of action should have writs without payment and counsel and attorneys assigned to act for them without reward.

This Act applied only to the three superior courts of common law, but a similar practice was adopted in the Court of Chancery (see Sanders' Chancery Orders, pp. 61, 110, 150, 218).

The old practice with regard to actions prosecuted "*in forma pauperis*" is very fully dealt with in "Hullock on Costs," second edition, published in 1810.

The author deals with the practice, which apparently at one time prevailed of giving a pauper plaintiff who was non-suited or who failed in his action, the option of discharging the costs which he was not under any obligation to pay, or of submitting to be whipped, and he refers to a change of opinion on the point on the part of Chief Justice Holt who refused a motion by Salkeld that a pauper might be whipped for non-payment of costs upon a non-suit, on the ground apparently that there was no officer for the purpose, and that he had never known it done.

The statute 11 Henry VII, c. 12, is repealed by the Statute Law Revision and Civil Procedure Act of 1883, but its provisions and those of the Chancery Orders and Common Law Rules (which gave effect to it in somewhat different terms) are thrown into one code by Rules of the Supreme Court, 1883, Ord 16, rr. 22-31.

By those rules any person might be admitted "in the manner heretofore accustomed" to sue or defend as a pauper on proof that he was not worth £25; his wearing apparel and the subject-matter of the cause excepted.

In order to obtain the assistance given by these rules, the applicant had to satisfy the court as to his means, obtain an opinion of counsel as to his having reasonable grounds of proceedings and swear an affidavit that the case laid before counsel contained a true statement of all material facts, this procedure was not widely known, and it was very difficult for the ordinary pauper to take advantage of it, as there was no officer or other recognised person to whom he could go, and he had himself to find counsel willing to give the necessary opinion as to the merits of the case.

The first real attempt to open the doors of the High Court to the poor, was made in the year 1914; in that year the word "pauper" disappeared from legal procedure, and on the 9th June of that year Rules of Court known as "Poor Persons Rules" came into force.

The new procedure was very much simpler for the applicant, as a central office was opened in the Royal Courts of Justice in London known as the Poor Persons Department, where anyone could apply for the assistance required; in addition to the office in London, application could be made in the provinces to any of the High Court District Registrars.

The machinery of the office was controlled by officials known as prescribed officers, the prescribed officers in London were certain masters of the King's Bench and Chancery Divisions, and for divorce the senior Registrar of the Principal Probate Registry.

Every High Court District Registrar became a prescribed officer for the purposes of dealing with matters in the King's Bench and Chancery Divisions.

The applicant had to complete a statutory application form, the application was enquired into, and reported upon by a solicitor nominated by the prescribed officer, and the order admitting the applicant as a poor person was made by a judge, master or registrar, as the case might be. If an order was made, solicitor and counsel to conduct the proceedings were assigned by the prescribed officer, the applicant had to pay the out-of-pocket expenses in connexion with the litigation, but was not required to pay any court fees, and seldom was an applicant required to pay costs; the procedure was amended in the year 1920 and continued much on the same lines until April of 1926.

Between June, 1914, and April, 1926, about 40,000 applications for assistance were dealt with; most of these applications were for divorce.

In the year 1923 the Lord Chancellor (Lord Cave) appointed a committee to enquire into difficulties which had arisen in the working of the Poor Persons Rules, and to consider and report to the Lord Chancellor as to the steps which should be taken, whether by way of amendment of the rules or by substituting a different system with a view to assist poor persons to pursue civil remedies in the High Court, or to defend proceedings brought against them.

The committee held twenty-four sittings and made their report in February, 1925 (Cmd. 2358).

The report recommended—

(1) The divorce work to be further substantially decentralised;

(2) The organisation and administration of the work to be entrusted to the profession instead of being in the hands of officials; and

(3) A reasonable annual grant in aid of the expenses of administration to be made by the Government.

The report contained provisional proposed rules for carrying the recommendations into effect, and a suggested scheme for working them.

The committee's recommendations were adopted and incorporated in the Rules of the Supreme Court (Poor Persons), 1925, which came into operation on the 6th April, 1926.

Those rules transferred to committees composed of practising solicitors the authority to admit poor persons to the benefit of the poor persons procedure, formerly exercised by the prescribed officers, the court or judge and the divorce registrars.

Under those rules seventy-eight committees have been appointed by The Law Society and Provincial Law Societies with the approval of the Lord Chancellor.

(B) THE CERTIFICATE.

A committee has power to grant a certificate to a poor person admitting him to take or defend or be a party to any legal proceedings in the High Court of Justice (except bankruptcy proceedings and criminal causes or matters), provided the poor person's means do not exceed the limits imposed, and that the committee is satisfied that the poor person has "reasonable grounds," or in other words a *prima facie* case.

A general form of application is in use throughout the country and may be obtained free of cost from the secretary to any one of the committees.

The poor person is required to make a statutory declaration as to the truth of the information given by him, and as to the amount of his means and earnings.

If a poor person does not know the address of the local committee, he should address his enquiry to the Secretary, Poor Persons Committee, Royal Courts of Justice, London.

A poor person is one whose usual income from all sources does not exceed £2 a week, or in special circumstances £4 a week, and who is not worth more than £50 or in special circumstances £100.

Special circumstances include the number of dependants a poor person has, the increased cost of living, and special circumstances in the case itself, such as the cost of substituted service by advertisement, obtaining evidence abroad, and any other extraordinary expense necessary to be incurred.

The certificate is issued by the committee after enquiring as to the means of the applicant, and the merits of the case.

Before granting a certificate the committee must be satisfied that the applicant is a poor person within the meaning of the rules, and has reasonable grounds for admission to the benefit of them.

The certificate must be signed by two members of the committee present at the enquiry; it must contain the name of the solicitor nominated by the committee to undertake the conduct of the proceedings.

In the case of a wife applicant in a matrimonial cause, the husband's means must be taken into consideration as well as those of the wife, but if the wife is a poor person within the meaning of the rules, she may be granted a certificate whether her husband is a poor person or not, if the committee considers it is reasonable in the circumstances that she should be admitted under the rules. In such cases the certificate may be limited to such proceedings as are necessary to enable the applicant to obtain security for her costs.

If a limited certificate is granted the case proceeds as a poor person's case up to the application for the Registrar's certificate to enable the cause to be set down for trial, when it ceases unless specially extended.

Full details as to the course to be adopted will be explained hereafter.

No court fees are payable, and the solicitor and counsel receive nothing for their services.

The poor person has to find sufficient money to pay any actual expenses in the conduct of the case.

It is the practice, when granting a certificate, to require the poor person to deposit a sum of from £1 to £5 as security for any expenses which may be incurred, any balance being returned at the conclusion of the case.

The expenses usually are small and include such items as witnesses' expenses, commissioner's fees, copies of marriage and birth certificates, and, in some cases, the cost of serving the petition if a process server has to be employed.

A committee is empowered to allow payments for expenses to be made by the poor person to the solicitor direct.

Should it come to the knowledge of the conducting solicitor that the poor person has means beyond those stated in the certificate, it is his duty to report the matter to the court and the committee.

Cases have been known in which the means of the poor person have undergone considerable change for the better during the time the proceedings were pending; in some cases the poor person reported the fact, but in others no report was made, and the solicitor has been unaware of the change.

There is nothing in the Rules requiring a poor person to report any increase of means, but clearly it is his duty to do so if the increase brings him outside the limits allowed by the Rules.

The granting of a certificate is a matter of discretion and not of right.

(*Cook* v. *Imperial Tobacco Company*, 1922, 2 K.B. 158, C.A.).

And in another case on the 21st June, 1926, the Court of Appeal decided that the decision of the committee is final, and that there is no appeal therefrom, and that granting any particular applicant an interview is a matter upon which the committee may exercise its discretion.

The present system affords very much greater protection to the public for the reason that under the old procedure an order admitting "*in forma pauperis*" was made "as of course" upon an affidavit, and opinion of counsel.

A committee has no power to discharge a certificate, and once it has been filed it can be discharged by the court or a judge only.

Each committee has a list of solicitors and counsel willing to undertake poor person cases; the services of solicitor and counsel are voluntary and gratuitous; and no case is assigned for conduct until a solicitor and counsel have signified their willingness to undertake it.

A poor person's case may not be discontinued or settled without leave of the court or a judge, or of the committee.

A poor person may not discharge any solicitor or counsel acting for him under the Rules without the leave of the court or a judge, or, in the case of a solicitor, the committee.

A solicitor or counsel may not discontinue his assistance without the approval of the court or a judge, or, in the case of a solicitor, the committee.

It is the duty of the poor person to assist the solicitor assigned, in the preparation of the evidence, if such assistance is withheld the solicitor should report the matter to the committee or to the court (LOW, J., 61 S.J., p. 207).

In *Perry* v. *L. G. O. C., Ltd.*, 1916, 2 K.B. 335-352, C.A., Lord Justice PHILLIMORE said: "the Master, we are told, considered, in addition to the affidavits put before him and sworn in the action, materials laid before the Master to whom applications under the Poor Persons Rules are referred with a view to induce him to admit the applicant as a poor person. I do not think that it was right to take into consideration these unsworn and ex parte statements in aid of the plaintiff's case when the matter came to be decided *inter partes*. These materials were not, and I think properly were not, submitted to the judge or to us."

"A further objection to their use is to be found in the provisions of the last paragraph of r. 25." The rule referred to provided: The report and any documents or information obtained for the purpose of the report shall be treated as confidential and shall not be shown or disclosed to the parties or either of them, nor to counsel or solicitors without the direction of the prescribed officer.

In the present system there is no report, but it is considered that the committee when enquiring into applications and deciding upon them is somewhat in the position of a solicitor and client, and that contention has already been upheld by one of the Masters.

A certificate as a poor person in a matrimonial cause covers a petition for alimony *pendente lite*, custody and permanent maintenance, it extends to decree absolute or dismissal of petition and, therefore, may include defence to intervention by the King's Proctor.

Applications for the discharge of orders under the old rules were sometimes granted on one or more of the following grounds :—

(1) When evidence was produced proving that the applicant was not a poor person within the meaning of the rules.

(2) At the request of the poor person.

(3) Where the wife obtained an order to sue as a poor person in a divorce cause and it subsequently transpired that the husband was well able to pay his wife's costs.

(4) For vexatious conduct in the suit.

(5) Where the applicant wilfully misled the court and made a false statement in order to obtain the order.

(6) In divorce causes where it was found the poor person was living in adultery or had committed adultery and had not disclosed it when making the application.

Since the Law Society scheme came into operation on the 6th April, 1926, about 6,000 applications have been received; these figures show the magnitude of the work which has been undertaken by the profession, voluntarily and without remuneration of any description whatever, and it is only by the whole-hearted way in which the profession as a whole has accepted this heavy burden that the scheme has proved up to the present so successful. The experience of the last eighteen months invites the belief that the problem for the poor person in the High Court has at last been solved.

[The second article, entitled "The Conduct of the Case," will appear in our next issue.—Ed., *Sol. J.*]

# The Restoration of Life and Other Interests.

By Sir BENJAMIN CHERRY, LL.B.

A testator, who died before 1st August, 1894, devised land to the use of A for life with remainder, in the events which happened, to the use of B (A's son) in tail male with remainders over. In 1895 A and B, by a disentailing deed, purported to convey the land to X in fee simple discharged from the estate tail, etc., to such uses as A and B should by deed appoint, and in default of appointment to the old uses in restoration thereof. In the same year A and B, by a resettlement, appointed the land to such uses as A and B should by deed appoint, and subject thereto and to a rent-charge provided for B during A's lifetime, to the use of A for life in restoration of his life estate under the will, with remainder to the use of B for life with remainders over. In 1920, A died, entitled to other property besides his life interest, and the House of Lords held in *Parr* v. *A.-G.*, 1926, A.C. 239, first that A's life interest under the will was undisturbed by the disentailing deed and resettlement, the common law exponents either dissenting or not agreeing; and secondly that, although the life interest was subsisting under the will when it ceased, still as B undoubtedly acquired his new life interest under the resettlement (made after 1894) the land must, on the death, be taken, for the purposes of the Finance Act, 1894, s. 4, the Finance Act, 1900, s. 12 (2), and the Finance Act, 1907, s. 16, to have "passed" under an instrument made after 1894. The result was, that the settled property was aggregable with the free property of A and the rate of estate duty payable had to be fixed on that footing.

Had B retained the estate tail limited to him by the will, there would have been no aggregation. This suggests the question whether, under the Settled Land Act, 1925, s. 22 (2), it is permissible for a tenant in tail who, by a resettlement, cuts down his estate tail to a life interest, to take the latter in restoration *pro tanto* of his former interest? That is a point which requires separate treatment.

The object of this article is merely to supplement the reported arguments employed in *Parr's Case*, without re-stating matters which can be found in the report of that case, in the hope that common lawyers may come to recognise that the decision of the majority of the House was sound.

In the first place a conveyance to X in fee simple to the use of another person or other persons was not allowed to pass any estate whatsoever to X; it did not operate at common law at all, the Statute of Uses saw to that. X was a mere conduit pipe, nothing passed to or remained in him.

Such a purported conveyance, however, complied with the Statute, for, but for its operation, X would have had the common law seisin. This notional seisin, though X took no estate, was sufficient to feed the uses immediately declared or subsequently appointed: L.P. (Amendment) Act, 1860, s. 7.

That X took no estate is clear, for if, not having executed the deed, he purported to disclaim (a disclaimer necessarily relates back to the instrument of acquisition), the conveyance nevertheless took effect as a valid conveyance to uses; he never had anything to disclaim: *Re Dudson*, 1878, 8 Ch. D., at p. 631; *Nelson* v. *Agnew*, 1871, Ir. R. 6 Eq. 232.

On the other hand, if a disentailing deed was made unto and *to the use* of X in fee simple on trusts, this took effect at common law and transferred the fee simple to X, with the result that, if X disclaimed, the disentailing deed was void: *Peacock* v. *Eastland*, 1870, L.R. 10 Eq. 17. The Statute of Uses did not apply, because, according to the terms of the grant, X was not seised to the use of *another* person.

In the next place, the reason why a restoration clause, whether contained in a disentailing deed or a resettlement, was valid, was because, if nothing had been said, or a gap had been left in limitations, there would have been a resulting use to the grantors; they would, of necessity, have taken the same estates, in default of a complete appointment, as they had immediately before the grant.

Thus if A (tenant for life), and B (tenant in tail) disentailed and purported to convey the land to X in fee simple to such uses as A and B should by deed appoint, without declaring any uses to take effect in default of appointment, then A took back his old life estate and B his old estate tail: *Armstrong* v. *Wolsey*, 2 Wils. 19; "Sanders on Uses," 5th ed., Vol. I, p. 99; *Beckwith's Case*, 2 Co. Rep. 58b; Shepp. Touch. 522.

It made no difference if the grantors expressly stated that, in default of appointment, the land should go "To the Uses, upon the trusts and subject to the powers and provisions which immediately before the execution hereof were subsisting or capable of taking effect with respect to the premises and so as to restore the same"; this was merely spelling out what would, in default of appointment, have happened by operation of law: "Chance on Powers," Vol. II, p. 470; *Godbolt* v. *Freestone*, 3 Lev. 406; *Abbot* v. *Burton*, Salk., 590.

There is no justification for the suggestion that it is only in the case of a disentailing deed or of a descent *ex parte materna*, that this spelling out of the old uses operated to restore the original estates: "Gilbert on Uses," 3rd ed., 121; "Cornish on Uses" (1825 ed.), pp. 74-5. Indeed, it would have been passing strange if an estate could not have been expressly restored by a resettlement as well as by a disentailing deed.

Next, suppose that A and B, by a resettlement, in exercise of the power given by the disentailing deed, appointed the land to such uses as they should appoint, and subject thereto to the use that B should during the joint lives of A and B have a rent-charge and subject thereto *after* the death of A, to the use of B for life with remainders over. Now, in this case, there is a gap in the limitations; nothing is said as to what is to happen till the power of appointment is exercised, *during the lifetime of A*, except that B is to have a rent-charge. The result would have been that (subject to the power and the rent-charge), A would, in default of appointment, have taken his old life estate by resulting use.

Lastly, spell out these limitations, they would be—to such uses as A and B should by deed appoint, and subject thereto to the use that B should have a rent-charge during the joint lives and subject thereto "To the use of A during his life

*in restoration and in confirmation of his former life estate,*" with remainder to the use of B for his life with remainders over.

Now why employ the words " in restoration and in confirmation of his former life estate," or any similar expression ? The reason is, that if and when a power of appointment is exercised, the presumption is that a new estate or interest is to be created, hence, if this is not intended, the presumption must be rebutted or a new appointment negatived. As the old life estate would have been taken back under a resulting use if no uses had been declared during the life of A, it was permissible to show that the writing out of the use was merely for convenience, and was not to affect the estate taken : " Gilbert on Uses," 3rd ed., p. 32. To this extent, at any rate, the expressed intention of the parties was allowed to govern the situation. To put it in another way, if the estate was expressed to be restored, A really took *in default of appointment*, not by virtue of the appointment.

No doubt the object of restoring an estate was generally to keep alive some power. Whether or not this was necessary depended on the form of the power. If the power was, for instance, made exercisable only with the consent of a person holding a particular estate created by the instrument conferring the power, then, if that estate was destroyed, the power inevitably fell with it ; the power could not be preserved without the estate. But if the consent required was purely personal, it was immaterial whether or not the estate was destroyed.

If under the Settled Land Act, 1925, s. 22 (2), an estate is restored by a resettlement, the tenant for life not only retains his original powers, but is also able to exercise any additional powers conferred by the resettlement.

The difficulties encountered in construing the Statute of Uses may be considered as a sufficient reason for its repeal, provided that the new legislation (see *e.g.*, Law of Property Act, 1925, ss. 1 (9), 4 (1), 51, 65, 66, 72, 149 (2) ; Settled Land Act, 1925, s. 22, 4th Sched., para. 8), has furnished substituted means for carrying out useful transactions which were facilitated by that statute.

## Mr. Cecil Allen Coward, LL.D.

We have great pleasure in including in this, our Autumn Special Number, a portrait of Mr. Cecil Allen Coward, LL.D., Solicitor, the President of The Law Society for the year 1927–8. Educated privately, Mr. Coward entered the Inner Temple as a student in 1865, and two years later became an Exhibitioner at the General Examination of the Inns of Court. Before being called to the Bar he was introduced to Sir J. Hallam, in whose offices it was arranged he should work for a few months in order to gain some experience in the practical side of legal work in the City. He was called to the Bar in November of that year, when it was decided that he should remain with Sir John Hallam under articles, with a view to becoming a solicitor. He was admitted in 1870, and became a partner on the 1st January, 1874, and has remained an active member of the firm for upwards of half a century. Mr. Coward was a member of Lord Macnaughten's Committee on the Law Courts, of the Royal Commission on Delays in the Courts, and of the Royal Commission on the Civil Service so far as related to the Law Courts. He was elected Member of the Council of The Law Society in 1910, on which he continues to sit. Mr. Coward took a prominent part in the passing of the Solicitors Act, 1919, which has given the Discipline Committee of The Law Society power to make orders as to striking solicitors off the Roll or suspending them from practice in cases of professional misconduct, thus placing the profession for the first time in the position of being " Masters in their own house." On the occasion of the recent visit of The Law Society to Sheffield the Honorary Degree of LL.D. was conferred upon him by Sheffield University. H.

## The Judgments in the "Lotus" Case.

The judgment of the Permanent Court of International Justice, and the dissenting opinions of six of the twelve judges who tried the " Lotus " case, constitute some of the most important judicial pronouncements of that august tribunal and its eminent members. General principles of wide application were discussed, and a decision arrived at, which will form the subject of earnest debate throughout the world, perhaps resulting in international legislation, by way of convention, upon highly controversial subjects of profound legal and practical interest.

The facts of the case lie in small compass. A French ship, the " Lotus," collided, upon the high seas, with a Turkish ship, the " Boz-Kourt," which sank, with loss of life. The French navigating officer, being later within Turkish territory, was arrested, tried for manslaughter, jointly with the Turkish captain, by a Turkish court, convicted and punished.

The question for the Permanent Court of International Justice was whether, by instituting such proceedings, Turkey acted in conflict with the principles of international law, contrary to Art. 15 of the Convention of Lausanne of 24th July, 1923. There was a subsidiary question of reparation, which was not dealt with, the main issue being decided in Turkey's favour.

Six matters of interest, of unequal importance, emerge from the very lengthy judgments—they occupy no less than 150 typewritten foolscap pages. They are (1) the formulation of a rule of interpretation ; (2) a discussion of the nature of international law ; (3) the territorial limitation of criminal jurisdiction ; (4) the localisation of crimes ; (5) the question of exclusive jurisdiction in collision cases ; and (6) the doctrine of *connexité*. We will take them in this order, which is that in which they came up in the majority judgment, with brief comparisons of that judgment on each point with one or other of the minority opinions.

The whole of the discussion turned upon the question whether criminal jurisdiction could, or could not, be claimed by Turkey in the case before the court. The question whether the prosecution was, or was not, in conformity with Turkish law was excluded from the inquiry.

(1) *A rule of interpretation.*—The court obtained cognisance of the case by notification of a special agreement concluded between the parties, which submitted for adjudication the questions whether Turkey had " acted in conflict with the principles of international law, and, if so, what principles " by instituting the prosecution of the French officer.

Article 15 of the Convention of Lausanne says that, " Subject to the provisions of Article 16 "—an Article not relevant to the present discussion—" all questions of jurisdiction "—or, as Lord Finlay preferred to translate it " judicial competence "—" shall, as between Turkey and the other contracting powers, be decided in accordance with the principles of international law."

The French Government maintained that the meaning of the expression " principles of international law " should be sought in the light of the evolution of Art. 15. The court repudiated this method of interpretation, recalling pronouncements in earlier judgments and opinions that there is no occasion to have regard to preparatory work if the text of a Convention is clear in itself, and they held that the expression meant " the principles which are in force between all independent nations and which therefore apply equally to all the contracting parties." No English lawyer will quarrel with the canon of interpretation adopted, and it was not attacked in the dissentient judgments. Mr. Moore, declining to express an opinion whether evidence of the course of negotiations was, or was not, admissible in interpreting a treaty, said that the language of Art. 15 was simple and plain

and stood in no need of interpretation from sources outside the terms of the treaty.

A little inconsistently, the majority judgment proceeds to discuss at some length the "preparatory work," and decides that there was nothing in it to overrule the construction adopted by the court.

(2) *The nature of international law.*—A fundamental difference in the French and Turkish points of view early manifested itself. Stated briefly, France contended that Turkey must point to some right to jurisdiction recognised by international law. Turkey took the standpoint that it was for France to cite any principle of international law violated by the exercise of the jurisdiction claimed. The court held, not only that, in conformity with the Special Agreement itself, this onus lay upon France, but that "this way of stating the question is also dictated by the very nature and existing conditions of international law."

This sweeping statement is severely criticised by several of the dissentient judges. Perhaps the best remark is that by M. NYHOLM: "It is impossible to hold with the judgment, that, over and above positive international law, there is a kind of international law which amounts to this: that the absence of a rule prohibiting an action suffices to render that action permissible."

Put quite concisely, one set of jurists says that in international law what is not forbidden is permitted, the other that what is not permitted is forbidden. It looks like a radical difference as to the nature and substance of international law. Probably in practice it amounts to nothing more than a difference of opinion as to the burden of proof. In fact France was able to argue, though not to establish to the satisfaction of the court, that a restriction existed in the exclusively territorial character of criminal law, while Turkey professed to discover in the municipal legislation of different countries evidence of a permissive international custom justifying her action.

While the majority conception colours the court's judgment almost t roughout, it was not essential to the determination of the case, which was decided on comparatively narrow grounds—comparatively only, be it said.

(3) *Territorial limitation of criminal jurisdiction.*—The Turkish law, copied in this directly from the Italian code, and in this resembling in greater or less degree the national law of some other states (the various laws are exhaustively considered in the dissenting judgment of M. ALTAMIRA), claims a right, in some circumstances, to try, and punish, foreigners for acts committed in foreign countries, not only against Turkey itself, but also against Turks, should such foreigners afterwards be found in Turkish territory.

The majority judgment did not pass upon the contention that this claim conflicts with international law, "for this contention relates only to the case where the nationality of the victim is the only criterion on which the criminal jurisdiction of the state is based"; the judgment was rested on grounds to be considered in the fourth division of our subject; and the court considered that even if it thought the relevant Article 6 of the Turkish Criminal Code conflicted with international law, it was not prevented by the reliance of the Turkish national courts upon it, from finding the prosecution itself not so to conflict, if it could be based upon some other provision of Turkish law not in disaccord with international law.

But Mr. MOORE, in a luminous judgment, supported by very full and very relevant citations, attacks Article 6, which he says is the basis of the jurisdictional claim, and asserts emphatically that "it is contrary to well-settled principles of international law," a view with which it is difficult not to agree. Mr. MOORE's dissent was based solely on the connection of the "Lotus" case with the Article he impugns. He emphasises the grave inconveniences which might result from the full application of that Article.

The pithiest remark was perhaps Lord FINLAY's that: "A country is no more entitled to assume jurisdiction over foreigners than it would be to annex a bit of territory which happened to be very convenient for it."

That Turkey's legal advisers were not too happy on the point is perhaps suggested by their having second and third strings to their bow, presently to be considered.

Article 6 speaks of an offence by a foreigner "*en pays étranger*" (translated in the English text, not too happily as "abroad"). It was by consent assumed for the purposes of this part of the case that the collision on the high seas was "*en pays étranger*," within the meaning of the Article, an assumption which may or may not be sound.

It is interesting to note upon this that the original draft of Article 15 of the Convention of Lausanne limited Turkish jurisdiction to crimes committed in Turkey itself, while Turkey sought by an amendment to extend its jurisdiction to crimes committed "in the territory of a third state." Neither draft nor amendment seems to have contemplated an extension of jurisdiction to offences committed on the high seas, unless Turkish territory be extended by the fiction next to be discussed.

(4) *The localisation of crimes.*—The grounds on which the actual judgment was finally based are these: The seas are free; a ship on the high seas is assimilated to the territory of the State whose flag it flies; what occurs on board a ship on the high seas must be regarded as if it occurred on the territory of the State whose flag the ship flies; there is no rule of international law prohibiting the State to which the ship belongs on board of which the effects of the offence have taken place, from regarding the offence as having been committed in its territory and prosecuting the offender accordingly, in its national courts; this conclusion could only be overcome if there were a rule of customary international law establishing the *exclusive* jurisdiction of the flag State, and there is no such rule; the two elements of negligence on the French ship and its effects on the Turkish ship are inseparable, "so much so that their separation renders the offence non-existent." Therefore, France and Turkey have concurrent jurisdiction, and Turkey's action was not in conflict with the principles of international law.

There was a great deal of argument and discussion of the legal fiction that, at any rate for the purposes of giving jurisdiction, a man can act where he is not. The point arose and was discussed in our English *Franconia Case*. An able article by Mr. BECKETT in the "British Year Book of International Law for 1927," so fully deals with the discussions of this point by counsel and the judges in that case, happily forecasting the very basis of the "*Lotus*" judgment, that it would be both idle and presumptuous to travel again over the same ground. The minority judgments in the "*Lotus*" *Case* also dealt faithfully with this point.

Lord FINLAY regarded it as "a new and startling application of a metaphor," to say that when the French navigating officer by a faulty manœuvre let his ship collide with the Turkish ship, he committed an offence on Turkish territory as much as if he had committed one on shore within her territorial limits.

However, Mr. MOORE, concurring in the view that there is no rule of international law by which the penal cognizance of a collision at sea, resulting in loss of life, belongs exclusively to the country of the ship by or by means of which the wrong was done, his dissent being, as we have mentioned above, on another ground, rightly points out that on that element of the case, there was a definitely ascertained majority of seven to five.

Actually, on the whole case, the court was equally divided, and judgment was given in favour of Turkey by the casting vote of the president. As the court is not bound by its own decisions, though inevitably and properly disposed to treat

them as precedents, it may, should it have to consider the same point when differently constituted, arrive at a different conclusion upon it.

(5) *Jurisdiction in collision cases.*—France set up the contention that there were special reasons why the exclusive jurisdiction of the flag State of the offending ship should be maintained in collision cases, "mainly connected with the fact that the culpable character of the act causing the collision must be considered in the light of purely national regulations which apply to the ship, and the carrying out of which must be controlled by the national authorities." As already stated, the court held that there was no rule of international law to support this contention.

The court pointed out that it was here not a proceeding for non-observance of national regulations dealing with breaches of discipline, providing for such disciplinary measures as the cancellation of a certificate and so depriving a ship's officer of his position, but of a prosecution for a criminal offence. "Neither the necessity of taking criminal regulations into account, nor the impossibility of applying certain disciplinary penalties, can prevent the application of criminal law and of penal measures of repression."

(6) *Connexité.*—This point requires but very brief mention. Turkey set up as an alternative ground of justification for her assumption of jurisdiction that the case involved connected offences (*délits connexes*) of the two navigating officers; and its code of criminal procedure, in this borrowed from the French criminal code, required such offences to be tried together. The court, having found other grounds for its decision, declined to consider whether the doctrine of *connexité* justified an extension of Turkish jurisdiction. The claim to such an extension seems a weak one. Mr. Weiss characterised the conception as "completely foreign to international relations," and as "a rule of internal convenience applicable in those states which have included it in their codes of procedure, but ineffective outside their frontiers." M. Loder pricked the bladder with the happy remark that, "Simultaneity is not the same as connexity."

From the English point of view it is unfortunate that the extreme claims to criminal jurisdiction made by Italy, Turkey and other States should have received the approval of the highest International Court. If the position thus established is to remain unchanged, the decision immensely strengthens the hands of those international jurists who advocate the setting up of an international criminal court. Cases of offences on the high seas involving the nationals of more than one State, or where the nationals of one State are liable for trial by the courts of another, are eminently suitable for trial by an international tribunal, which in such investigations should be assisted by nautical assessors, like our own courts trying similar questions. It would indeed be a very good experimental beginning to entrust such an international court with jurisdiction in such cases, including cases of piracy. It would remove the project from the unhappy controversial atmosphere where almost everyone is under the impression that such a court would be for the trial of nothing but war offences.

---

### "DOMESTIC SERVANTS MUST KEEP THEIR ENGAGEMENTS."

"You are entitled to succeed, and I commend you for bringing this action and showing domestic servants that they have no more right than their employers to break their engagements," said Judge Reeve to a plaintiff at Westminster County Court recently.

"The defendant broke her engagement at the last moment, apparently without showing any consideration for her contract."

The plaintiff, Mr. E. Dudley Copseham Rice, of Oxshott, said that he had brought the case purely as a matter of principle. He claimed £3 15s., a month's wages in lieu of notice against Miss M. Mackenzie, of Belgrave-road, S.W., who engaged to enter his service as parlourmaid and did not come. Judgment was given for Mr. Rice for the amount claimed and costs.

## Foreign Decrees of Nullity—when Valid in Great Britain.

By E. P. HEWITT, K.C., LL.D.

In three instructive articles, published in The Solicitors' Journal in its issues of the 20th and 27th November, and the 4th December, 1926, the question of the validity in English courts of a decree for divorce pronounced by a foreign tribunal was carefully considered. From a review of the authorities it was stated in the last of these articles, that:—

(1) For purposes of English law a foreign divorce will be treated as valid in England if such divorce was granted by the decree of the court of the domicile of both husband and wife; notwithstanding that the decree was made on grounds which would be insufficient to obtain a decree in England, provided that the proceedings in which the decree was made do not offend against English ideas of substantial justice.

(2) A decree obtained elsewhere than in the court of the domicile will be given recognition in England if the court of the domicile would acknowledge its validity.

(3) It seems that where husband and wife are, under foreign law, deemed to have separate domiciles, a decree obtained in the country of the domicile of one party will be valid in England if the other party submitted to the proceedings.

(4) It is conceived that recognition will be given in England to a divorce obtained by a wife in the court of her separate domicile where the circumstances are analogous to those in *Ogden* v. *Ogden*, 1908, P. 46.

At the time when the above articles were published, the question whether a decree of *nullity* pronounced by a foreign court, in the country of the parties' domicile, would be regarded as binding here, had not been settled. The point is one upon which there was a good deal of conflicting authority, but which may be considered to have been set at rest by the decision of the House of Lords in *Salvesen* v. *Administrator of Austrian Property*, 1927, A.C. 641. In that case, Miss Salvesen, a British subject domiciled in Scotland, went through a form of marriage, in June, 1897, with Herr Von Lorang, an Austrian subject, the marriage ceremony taking place in Paris. In 1898 the parties took up their residence in Germany and lived there together as man and wife until the end of 1923, except during the period of the war, when Herr Von Lorang served with the Austrian army. In December, 1923, the Administrator of Austrian property (the respondent in the appeal), instituted proceedings in Scotland, claiming the movable property of the appellant in Scotland, which was then in the hands of her agents under the Treaty of Peace (Austrian) Order, 1920, and an amending Order of 1921. The claim (which was based on the ground that the appellant became by her marriage an Austrian subject), was resisted by the appellant who alleged that she had recently discovered that her marriage in Paris was null and void, the formalities of residence and publication required by the French Court not having been observed, and the Registrar in Paris having been induced to perform the ceremony upon the faith of a certificate by which Herr Von Lorang untruly stated that he was domiciled in France.

Proceedings were thereupon taken in Germany by the appellant or Herr Von Lorang to establish the invalidity of the marriage, and the court at Wiesbaden made a declaration that the marriage was void. The respondent was not a party to the proceedings in Germany, and he claimed, before the Court of Session, to be entitled to have such proceedings investigated. It was not alleged that there had been fraud in obtaining the decree of nullity; and the real question, as put by Lord Haldane, was "whether the court of the domicile was competent to dispose conclusively and finally of the question before it. If so, it does not matter in law whether it had an *exclusive* jurisdiction." Lord Haldane proceeded

to observe that—"Had the question been one of *divorce* for adultery, there could to-day have been no controversy as to the binding effect of the German decree. The status of married persons as dependent on divorce is a matter for which the court of their domicile is the appropriate court, and its decision is treated by our courts as not only valid but as conclusive." This ruling entirely supports conclusion (1) in the article of the 4th December referred to above. Lord HALDANE went on to point out, however, that the case then before the House of Lords "is not one of dissolving an existing marriage but of deciding that no valid marriage ever took place," and he proceeded to discuss the question whether the rule was the same for nullity suits as for divorce. In a number of cases a distinction had been taken—as regards the binding force of a foreign judgment—between a decree of divorce and a decree of nullity; such distinction resting upon the ground that whereas divorce alters *status* (which may be regarded as a '*res*') a decree of nullity does not alter status, but is a declaration of an existing fact. In the last edition of "Westlake" (1925), p. 95, it is stated that "a sentence of nullity in the domicile will not necessarily be authoritative in England if the marriage was celebrated in England. It was, however recognised in *Mitford* v. *Mitford* (1923, P. 128) . . . The marriage in that case was celebrated in Germany, *which was therefore the proper forum to declare the nullity*" (my italics). It will be observed that in this passage the *lex loci contractus* is treated as applying to questions of nullity not merely in the sense that the validity of a marriage may depend upon the law of the country where it was celebrated, but that the court of that country is the proper court to pronounce a decree of nullity. As will be seen later, this statement appears, by the recent decision, to be incorrect. In *Simonin* v. *Mallac*, 2 Sw. & Fr. 67, the marriage had taken place in England, but both the parties were domiciled in France. The wife having obtained a decree of nullity in France, came to England and petitioned for a declaration of nullity here. It was held that the law of the place where the marriage was celebrated prevailed over the law of the domicile, and that accordingly the court here had jurisdiction. This decision, it is thought, cannot stand, since the recent case in the House of Lords. In *Niboyet* v. *Niboyet*, 4 P.D. 1, the Court of Appeal decided by a majority that the court in this country (where the parties were resident) had jurisdiction to determine a question of divorce, although the domicile of the husband (and therefore also of the wife) was French. BRETT, L.J., dissented, holding that the court of the domicile had exclusive jurisdiction, but he drew a distinction between suits for divorce and those for nullity—"I do not think that it (i.e., the rule that the court of the domicile is the court to determine a question of divorce) does apply to suits for a declaration of nullity of marriage"; and this dictum was expressly approved by GORELL BARNES, P., delivering the judgment of the Court of Appeal in *Ogden* v. *Ogden*, *supra*, and was acted upon by Lord ST. HELIER in *Roberts* v. *Brennan*, 1902, P. 143.

In *Salvesen* v. *Administrator of Austrian Property*, Lord HALDANE observed that if the judgment of the Weisbaden Court was a judgment determining the status of the supposed husband and wife "it may well be that it should be regarded as binding on third parties as a judgment *in rem*." The respondent, as stated above, was not a party to the proceedings before the court in Germany; and accordingly, assuming that the Wiesbaden Court, as the court of the domicile, had jurisdiction—which the learned Lords in fact held—the question whether the respondent was bound by the decision depended, it would seem, upon whether the decree was a judgment *in rem*, binding on all the world. Upon the question of the true meaning of the expression "judgment *in rem*," the noble Lords made some very interesting observations:—

> "All are agreed," said Lord DUNEDIN, "that a judgment of divorce is a judgment *in rem*, but the whole argument of the majority of the judges in the Court of Session turns on the distinction between divorce and nullity. The first remark to be made is that neither marriage nor the status of marriage is, in the strict sense of the word, a '*res*,' as that word is used when we speak of a judgment *in rem*. A *res* is a tangible thing within the jurisdiction of the court, such as a ship or other chattel. A metaphysical idea, which is what the status of marriage is, is not strictly a *res*, but it, to borrow a phrase, savours of a *res*, and has all along been treated as such."

Lord HALDANE expressed himself to the like effect. After referring to the fact that a decree for a divorce by the proper court operates as a judgment *in rem*, the *res* being the status which is altered by the decree, Lord HALDANE dealt with the question of whether a decree of nullity alters status, and observed:—

> "The decree did undoubtedly alter the status of the husband and wife"—(the words "husband and wife" are not, of course, here used strictly)—"They ceased retrospectively to have been married people in the community of their country. For the purpose of the question raised, that status must be taken to have been a *res* and the judgment was therefore one *in rem*."

Lord DUNEDIN stated in the form of short propositions the points he held to have been proved:—

> "1. The German court had jurisdiction over the parties, they being domiciled in Germany equally whether there was marriage or no marriage.
>
> "2. This was a genuine action, and there was no collusion or fraud used to deceive the German court.
>
> "3. The validity of the marriage depended on French law, that being the law of the *locus celebrationis*.
>
> "4. The German court took proper steps to inform itself of the French law, and gave judgment according to the law proved before it.
>
> "5. That judgment is *equivalent to a judgment* in rem, and is therefore binding on the Scotch court without further inquiry."

Lord PHILLIMORE observed: "If the court is a competent court—still more if it is the only competent court—and *in my opinion the Wiesbaden court was the only competent court for these parties*—its judgment must be such a judgment as that described in *A* v. *B*, L.R. 1 P. & M. 559, a 'definitive decree declaring a marriage void, which should be universally binding and which should ascertain and determine the status of the parties once for all.'"

In the result, therefore, the House of Lords overruled the decision in *Niboyet* v. *Niboyet* and expressed disapproval of the dictum of BRETT, L.J., referred to above, and they commented unfavourably on the decisions in *Simonin* v. *Malloc* and *Ogden* v. *Ogden*. They laid it down that where the validity of a marriage is in dispute the court of the domicile of the parties has jurisdiction (whether it is an exclusive jurisdiction or not) to pronounce a decree of nullity of marriage. From the speeches of Lord HALDANE and Lord PHILLIMORE, they would appear, on the whole, to consider the jurisdiction of the court of the domicile to be exclusive. It was further held that a decree of nullity of marriage pronounced by a court of competent jurisdiction, whatever be the ground of the decree, is a judgment determining status, and is equivalent to a judgment *in rem*. If the court of the domicile has exclusive jurisdiction to make a decree of nullity or divorce, the conclusion No. 2 in the article of the 4th December, referred to above, may require some modification; and in consequence of the adverse comments made by the learned Lords on *Ogden* v. *Ogden* (see the observations of Lord DUNEDIN at p. 662, and of Lord PHILLIMORE at p. 670) conclusion No. (4) may also require qualification; although both conclusions (2) and (4) are in accordance with the law as stated in "Westlake."

The result was that the decree in Germany of nullity being held good here, the appeal from the Court of Session was allowed.

# A Conveyancer's Diary.

**Registration of Estate Contracts.**

Any contract by an estate owner, or *by a person entitled at the date of the contract to have a legal estate conveyed to him*, to convey or create a legal estate amounts to an "estate contract" and a land charge in respect thereof is registrable under the L.C.A., 1925, unless; the obligation arose before 1926 and has not been transferred after 1925: see *ib.*, s. 10, Class C (iv).

The land charge in such a case is to be registered "in the name of the estate owner whose estate is intended to be affected": *ib.*, sub-s. (2). The Register of Land Charges contains, amongst others, the following particulars: "The name, address and description of the estate owner, whose estate is intended to be affected": L.C. Rules, 1925, r. 6. And on the application form for registration of a land charge (Form L.C.4) particulars have to be supplied of the "estate owner." An estate owner is defined in the L.C.A., 1925, by reference to the L.P.A., 1925, s. 205 (1) (v) as "the owner of a legal estate."

Now suppose P enters into an agreement to take a building lease from L, and that P mortgages his agreement to M, undertaking in such mortgage to execute a legal mortgage or charge in favour of M when the lease is executed.

It seems that a land charge is registrable in respect of such a mortgage under L.C.A., s. 10, Class C (iv). Against whose name ought the registration to be effected? The answer given by the L.C.A. is fairly clear: against the name of L, the estate owner.

The peculiarities of the case are:—(a) that a land charge will be registrable against a person whose own estate as such, though affected, is not the estate which is to be mortgaged. The estate to be mortgaged is the derivative estate (when created). And, (b) that once such registration has been made, the estate owner is deemed to have notice of the interest in respect of which the registration has been effected; for "the registration of any instrument or matter under the provisions of the Land Charges Act, 1925 . . . in any register . . . shall be deemed to constitute actual notice of such instrument or matter . . . to all persons and for all purposes connected with the land." The result is that L, when he grants the lease to P, must communicate with M to see that M is satisfied that the lease should be granted in accordance with the contract.

In practice it is probable that no estate contracts will, in the great majority of such cases, be registered. For the registration in effect takes the place of commencing an action for specific performance and registering a *lis pendens*.

Where, however, completion is to be postponed for a considerable time, no doubt an estate contract would be registered.

It is, of course, understood that P could, if he thought it necessary, register a land charge to protect the contract for the lease.

**Charges for Local Land Charges Certificates.**

Messrs. Syrett & Sons' letter serves as a useful reminder that the Revised Local Land Charges Rules have not removed or lightened the evils of overcharging for official certificates of search for local land charges. Cases such as those mentioned by our correspondents are not infrequent; and in such cases there is undoubted overcharging. So far the representations made have proved unsuccessful; but this is no reason why pressure should not be continued to be brought to bear—in particular by The Law Society—for an immediate revision of the scale of charges.

### SOLICITOR SENT FOR TRIAL.

At Pontypridd, David Moy John, solicitor, was sent for trial on six charges of fraudulent conversion of money entrusted to him for investment. He pleaded "Not guilty."

# Landlord and Tenant Notebook.

**Unreasonable Withholding of Consent to Assignment, etc.**

We had occasion to refer in our last issue to the changes proposed to be introduced with regard to the measure of damages for breach of repairing covenants and agreements, by the Landlord and Tenant Bill, and it may not be inappropriate to refer to cl. 18 (1) of the Bill, the effect of which will be to make important alterations in the law with regard to covenants in restraint of alienation.

As the Bill at present stands the provisions contained in cl. 18 (1) will apply to all leases, agreements for leases, etc., whether made before or after the date on which the Bill will come into operation, with the exception, however, of leases of agricultural holdings: cl. 18 (4).

The chief importance of cl. 18 (1) lies in the fact that, where in a lease a covenant is entered into against assigning, underletting, or parting with the possession of the demised premises, or any part thereof, without licence or consent, such covenant is to be deemed to be subject to a proviso to the effect that such licence or consent is not to be unreasonably withheld—and it should be noted that no contracting out of these provisions will be possible.

In other words the effect of cl. 18 (1) will be to read into every lease, etc., which contains a covenant against assigning, etc., without licence or consent, a proviso to the effect that such licence or consent is not to be unreasonably withheld—but at the same time it should be carefully noted that such a proviso will not be read into a lease, etc., which contains an *absolute* covenant against assignment, etc., as distinguished from a conditional covenant against such assignment, etc., i.e., conditional on obtaining licence or consent.

The necessity will therefore arise more frequently in the future of considering what will amount to an unreasonable withholding of consent and what will be the effect of such unreasonable withholding of consent.

To deal with all the cases in which the courts have considered whether the withholding was reasonable or unreasonable would be beyond the scope of this article, and we shall therefore confine ourselves to what we consider to be the salient features of the law on the matter.

**Consent Essential in all Cases.**

In the first place the point cannot be too strongly emphasised that in every case it is essential to *ask for* consent—even where the withholding of the consent of the landlord would be utterly unreasonable in the circumstances: *Eastern Telegraph Co.* v. *Dent*, 1899, 1 Q.B. 835; *Barrow* v. *Isaacs*, 1891, 1 Q.B. 417; and it should be noted that the fact that the breach has been committed through forgetfulness or because the lessees thought it unimportant, has been held by the courts no ground for giving equitable relief against forfeiture for breach of the covenant, a state of things, however, which will happily be no more by reason of the alteration introduced by L.P.A., 1925, s. 146.

Once, of course, consent has been *asked for* and it has been unreasonably refused the lessee will not be bound to *obtain* such consent, and he may proceed to assign or underlet as the case may be; though the safer course to take would be to apply by originating summons to have the question as to the reasonableness or otherwise of the refusal determined.

In considering whether a refusal of licence or consent by the lessor is unreasonable, some assistance will be derived if due regard is paid to the object of the requirement of the licence or consent.

**Object of Requiring Leave or Consent:**

In the words of A. L. Smith, L.J., in *Bates* v. *Donaldson*, 1896, 2 Q.B. 247, the object of such a requirement is "to protect the lessor from having his premises used or occupied in an undesirable way or by an undesirable tenant." In that case, however, the clause was to the effect that the licence was "not

to be unreasonably withheld *in the case of any respectable and responsible person*." It is arguable, therefore, that where the clause is to the effect that "consent is not to be unreasonably withheld," without any further qualification, the object of the clause may cover a great deal more than was stated to be the case by A. L. Smith, L.J., in *Bates* v. *Donaldson, supra*.

Even where a refusal of consent would not otherwise be unreasonable a lessor might refuse such consent on the ground that the lessee had committed and was still intending to commit various breaches of the covenants contained in the lease.

Thus, in *Goldstein* v. *Sanders*, 1915, 1 Ch. 549, where the tenant had covenanted not to assign, etc., without consent, but the consent of the lessor was not to be unreasonably withheld, and the tenant had committed various breaches of covenant by making certain structural alterations to the premises, it was held that the refusal of consent to a proposed assignment by the tenant, without any reason being given, was in the circumstances not unreasonable on the part of the landlord.

So again, a landlord might refuse consent where the proposed assignee intends to use the premises for a purpose which would altogether change the character of the premises, or where the proposed assignees intend to carry on a trade which might depreciate the property or which might be injurious to the lessor (per Kay, L.J., in *Barrow* v. *Isaacs*, 1891, 1 Q.B., at p. 424), but this must be read subject to the decision in *Premier Rinks* v. *Amalgamated Cinematograph Theatres*, 56 Sol. J. 536, which appears to be to the effect that a lessor may not make his consent conditional on the proposed assignees or underlessees not carrying on a trade which would compete with the business carried on by the lessor himself.

On the other hand, it has been held unreasonable for the lessor to make his consent conditional on the lessee and proposed assignee undertaking to pay any increase of rates occasioned by the assignment or underlease: *Young* v. *Ashley Gardens Properties*, 1903, 2 Ch. 112; or to refuse consent on the ground that he wishes to obtain the premises himself: *Bates* v. *Donaldson*, 1896, Q.B. 247; and that, too, where the landlord has purchased the reversion with the object of occupying it himself: *In re Winfrey and Chatterton's Contract*, 1921, 2 Ch. 7.

**Lessee's Position where Covenant is Unreasonably Refused.**

Where a lessor refuses consent, and such refusal is unreasonable, the lessee, as we have already said, might, after asking for the consent, proceed to assign or sublet, as the case may be. It is hardly necessary to point out that a tenant in taking such a course will be running a certain amount of risk if his view as to the unreasonableness of the refusal should eventually prove to be wrong. It would be much better, therefore, for the lessee to obtain an authoritative pronouncement on the question by the courts by bringing an action for a declaration, or by applying to the court by means of an originating summons, which would afford a far speedier remedy.

Curious as it may seem, if the tenant is right in his contention that the refusal of consent has been unreasonable, he is not entitled to any damages, since, as Eve, J., put it, in *Ideal Film Printing Co.* v. *Nielson*, 1921, 1 Ch., at pp. 581, 582: "if the covenant on the part of the lessee not to assign without consent is merely qualified by a proviso that the consent of the lessor is not to be unreasonably withheld, there is no implied covenant by the lessor that he will not unreasonably withhold his consent, and in the absence of any express covenant to that effect no action will lie against him for reasonably withholding it."

**Costs.**

In the event of the tenant being successful in establishing that the lessor's consent has been unreasonably withheld, the tenant will be entitled to costs.

# Reviews.

*A Guide to the Probation Acts and Rules with special reference to the Somerset Combined Probation Areas Order*, 1927. By The Honourable Walter B. Lindley, a Judge of County Courts and Chairman of Somerset Quarter Sessions. Published by H. G. Mounter & Co., Ltd., Taunton.

This is an excellent handbook which should prove of great value, not only to the justices for the County of Somerset, to whom it is dedicated, but to all others concerned with administering the law as to the probation of offenders, with the improved machinery set up by the Criminal Justice Act, 1925.

Here, in small compass, are all the relevant statutory provisions with the orders and rules made to facilitate carrying them into effect, soundly and sensibly annotated.

There are, here and there, some matters which we should have preferred to put differently, and in the very forefront of the volume is a slip in the history of its subject. Power to release offenders on probation of good conduct was not first conferred by the Probation of First Offenders Act, 1887. Though the expression "probation" was then used for the first time, the course itself was provided for in s. 16 of the Summary Jurisdiction Act, 1879, which gave justices power to dismiss any information without proceeding to conviction, or on conviction to discharge conditionally on security being given for good behaviour, except in the case of adults who had submitted to their jurisdiction by a plea of guilty to an indictable offence with which they had power to deal.

Nor was even this the very beginning; for by 18 & 19 Vict. c. 126 there was power to dismiss without proceeding to conviction, and probably in practice this power was used, at least in some cases, to place the accused under friendly supervision. In an earlier statute, 10 & 11 Vict. c. 82, which first conferred on justices in petty sessions the power to try indictable offences summarily, there was an odd provision that if the offence *was deemed not to be proved* or it was considered inexpedient to inflict punishment, the juvenile charged could be discharged either with or without his finding sureties for good behaviour.

*A History of the English Courts.* By A. T. Carter, C.B.E., K.C. Being a Fifth Edition of A History of English Legal Institutions. London: Butterworth & Co., Ltd. 1927. viii and 183 pp. 15s. net.

Seventeen years have elapsed since the publication of the fourth edition of Mr. Carter's popular work. In view of the very considerable amount of research publications (such as the Selden Series publications and Dr. Holdsworth's great work) which have in the meantime appeared, this new edition is very welcome.

The book is written not for those who are prepared to seek the sources of English legal history, but "for those whose interest is more transitory." To such students it will, in particular, prove useful for examination purposes, for it contains a considerable amount of accurate information which is presented in a form rendering it easy to consume. But it fails to give a living picture of gradual growth, such as would awake a student's interest and inspire him to embark on more advanced work.

It is surprising what full information is given and how accurately it has been condensed, though in one case accuracy seems to have been sacrificed to brevity. Having already explained that "the nation owes . . . a great debt" to William the Conqueror for introducing feudalism—a system of tenure of land—into England, is it not misleading to state (see pp. 29, 30, 31) that the "writ of right raised the question of *ownership* of land"? The question decided by the writ of right was whether or not the demandant had a greater right to demand the land than the tenant had to hold it. The contrast between the questions determinable under a writ of right and a possessory assize was not that between ownership and possession but that between the right to hold the land and the better right to seisin.

# POINTS IN PRACTICE.

**Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.**

LANDLORD AND TENANT—DEATH OF TENANT—LIABILITY OF PERSONAL REPRESENTATIVE AND BENEFICIARY ON COVENANTS.

982. *Q.* The following is, we believe, a correct statement of law: A, an assignee for value of a leasehold term, is liable under the covenants in the lease so long as he retains some interest under the lease, but the moment he assigns away his entire interest his liability ceases. Is the same true if A, instead of being an assignee for value, acquires the leasehold term under the will or intestacy of the original lessee? Further is the position affected if A, as well as acquiring the term under the will or intestacy of the original lessee, was also the personal representative of the original lessee?

*A.* The liability of a personal representative in respect of his testator's lease is now regulated by the T.A., 1925, s. 26, as slightly amended by the L.P. (Am.) A., 1926, Sched. The personal liability of anyone taking a beneficial interest in a lease under a will or intestacy may be terminated by transfer, but subject to the right of the lessor to "follow" any other asset of the testator or intestate received by the same person in respect of non-payment of rent or breach of covenant, if the lease was made to the deceased.

POST-1926 INTESTACY—APPROPRIATION BY PERSONAL REPRESENTATIVES.

983. *Q.* A testator who died in 1927 by will appointed his brother-in-law sole executor and trustee and devised his real estate to the trustee upon the usual trust for sale and conversion and to pay the income to his widow for life. Subject thereto, the residuary estate to be equally divided between the testator's four children. The wife predeceased the testator and the brother-in-law renounced probate; a grant of administration (with will annexed) being made to two of the children. The testator's real estate consists of several properties which the four children do not wish to have sold, and they have arranged each to take certain of the properties at agreed figures as part of their share in the testator's estate. Can the transfer to each beneficiary be effected by assent, merely reciting that the beneficiary "has become entitled to the said property," or must there be a conveyance from the personal representatives reciting the arrangement to take in specie and setting out the value at which each property is taken over? If by assent or conveyance, would *ad valorem* stamp duty be payable? (See *Re Beverly*, 1901, 1 Ch. 681).

*A.* There is now a statutory power of appropriation by personal representatives contained in the A.E.A., 1925, s. 41. The transfer to each beneficiary may be effected by an assent (or perhaps better by a formal conveyance, so as to have the recitals under seal), reciting the consent of the beneficiary to accept the appropriated realty in respect of his or her share. No *ad valorem* stamp is necessary; the legal fiction of sale on which *Re Beverly, supra*, is based is superseded by the express power. The personal representatives will, of course, keep proper records of their valuations, etc.

ADMINISTRATRIX—PURCHASE OF BENEFICIARY'S INTEREST.

984. *Q.* In 1911 A died intestate, leaving a widow, one son, and two daughters (all of whom are living), and possessed of a leasehold dwelling-house which was practically his entire estate. The widow continued in occupation, and no further step was taken until March, 1927, when administration to A's estate was granted to the widow. The latter is now desirous of purchasing the son's interest, and vesting the property in herself and her two daughters, as joint tenants beneficially. In whom is the legal estate vested and what deed or deeds are necessary to give effect to the desire indicated?

*A.* The legal estate is obviously vested in the widow as administratrix. Although she is in a fiduciary position, the administratrix can purchase the son's beneficial interest, and she can then convey the property as suggested. The whole transaction can be carried out in one conveyance which needs, however, to be very carefully drafted: see 1 Prid., pp. 565, 566 n.

DISCHARGE OF MORTGAGE—L.P.A., 1925, s. 115 (2), AND 3RD SCHED., FORM 2.

985. *Q.* By s. 115 of the L.P.A., 1925, a receipt under the section, showing that the money has been paid by a person who is not entitled to the immediate equity of redemption, will operate as a transfer of the mortgage to the person making the payment, except in the cases stated. In the form of receipt given in the 3rd Sched. there is a note, that if the persons paying are not entitled to the equity of redemption, it should be stated that they are paying the money out of a fund applicable to the discharge of the mortgage. A is the owner in fee simple of certain property, which is mortgaged to B. A has contracted to sell the property, subject to the mortgage to C, but no conveyance has yet been executed. C, in turn, has contracted to sell the property to D. C proposes to pay off the mortgage, and A has agreed to convey direct to D. If a receipt in the form of No. 2 in the 3rd Sched., stating that the money is paid by C is endorsed on the mortgage and signed by B, will this operate as a transfer of the mortgage to C? If so, although C does not appear to be entitled to the equity of redemption, it does not seem that the note at the bottom of Form No. 2 is applicable. If, in the circumstances stated, the mortgage will be transferred to C, there seems no object in having a transfer in the Form No. 1 to the 3rd Sched. If, on the other hand, in the circumstances stated, the receipt does not operate as a transfer to C, what is the meaning of the words in s. 115 before referred to?

*A.* The footnote to the L.P.A., 1925, 3rd Sched., Form 2, does not appear to be applicable to the above circumstances. Accordingly, if C pays off the mortgage, the receipt by the mortgagee will operate as a transfer to him under s. 115 (2), unless, under sub-para. (*a*), it otherwise expressly provides. C can, therefore, elect whether he will have a transfer, or discharge the mortgage by inserting such provision in the receipt. If he elects for the former alternative, he will release his term by joining in the conveyance by A to D. If he merely discharges the mortgage, he is entitled to have the contracts entered into with him both by A and D fulfilled, and to hold the mortgage and title deeds, which presumably, will have been handed over to him by B, until they do so. But the first course will probably be the safest and best, and, in any case, A should require C to join in the conveyance to D, to release him, A, from the contract to sell and convey to C.

SETTLEMENT OF LAND BY WIFE ON HUSBAND SUBJECT TO RETAINED LIFE ESTATE—PROCEDURE.

986. *Q.* A client of mine, a married woman, wishes to make a deed of gift of the house in which she resides (with her husband) to her husband, reserving a life interest to herself. Can you tell me, please, where I could find a simple precedent? There must be trustees, of course. It is desired to dispense with two deeds if it is possible (i.e., a trust instrument and a

vesting deed). I also desire to know of a form of conveyance on sale by a special personal representative in whom the legal estate in land (formerly settled) has vested.

*A.* The wife wishes to make a settlement of land not now settled, and must therefore do so in conformity with ss. 4 and 5 of the S.L.A., 1925. Since s. 4 (1) requires two deeds, they are indispensable. Sections 4 (3) (*b*) and 5 (1) (*c*) require trustees of the settlement (i.e., for the purposes of the Act, see s. 117 (1) (xxiv)) to be appointed. Since the case is a simple, one, possibly the precedents in the 1st Sched., Forms 2 and 3 might be adapted. The precedent books do not appear to contain forms of conveyance by special representatives, but a careful draughtsman could no doubt adapt forms of conveyance by general representatives.

# Correspondence.

## Revised Local Land Charges Rules.

Sir,—We observe that the Ministry of Health have sent a circular to the local authorities relating to the Revised Local Land Charges Rules, in which reference is made to complaints at the delay in furnishing official certificates of search. It might have been well if the Ministry of Health had also referred to the numerous complaints which are being made by property owners and their advisers with regard to the excessive charges which are being made by local authorities for the certificates.

In a case which we are now dealing with, which relates to nineteen small cottages all adjoining one another, the local authority is asking for fees amounting to 39s. for a certificate that there are no outstanding charges in the matter. It is apparently the custom of local authorities to require a special application to be made in respect of each house, although, as in this case, they may all adjoin and the trouble involved to the authority is, of course, little more than if the enquiry had been with regard to one property.

These charges constitute a serious burden on property owners, and it is suggested that the matter should be taken in hand without delay, and representations made to the Lord Chancellor on the subject. It is understood that The Law Society have already made a representation in the matter, but so far, apparently, without success.

London, E.C.2. SYRETT & SONS.
3rd October.

## The Gardeners Tax.

Sir,—I have only quite recently seen your note on this subject, and Mr. Milnes' letter in your issue of the 3rd ulto.

Is not *Braddell* v. *Baker*, 27 T.L.R. 182, expressly in point ? The headnote is as follows :—

"The respondent employed A as a jobbing gardener four days a week. A was at liberty to work for another employer in the same capacity on those days, that (*sic*) he was not employed by respondent and he was entitled to send a qualified substitute to do respondent's work when unable to attend himself.

"A worked greenhouses of his own and frequently supplied respondent with plants from them.

"*Held*, that A was not a male servant within the meaning of s. 19 (3) of the Revenue Act, 1869."

This decision goes further than the "qualification" put forward by your correspondent, and shows that the contention of "an official of the Local Taxation Department of the L.C.C." was quite erroneous.

Gray's Inn, W.C.1. J. ROWLAND HOPWOOD.
3rd October.

**VALUATIONS FOR INSURANCE.**—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

# Court of Appeal.

**Albemarle Supply Co. Ltd.** *v.* **Hind & Co.**

15th, 18th and 29th July.

LIEN—HIRE PURCHASE AGREEMENT—TAXICABS KEPT AT GARAGE—CONDITION AGAINST CREATING LIEN—LIEN CLAIMED FOR REPAIRS—APPROPRIATION—DEMAND FOR LARGER SUM THAN THAT COVERED BY LIEN—NO TENDER OF CORRECT AMOUNT.

*A company let three taxicabs to B on hire purchase, with a condition prohibiting him from creating any lien upon them in respect of the cost of repairs. B garaged them with the defendants, who rendered weekly accounts for petrol and other supplies and repairs, and were paid by weekly sums on account. The company having determined the contract and demanded the return of the cabs, the defendants claimed a lien upon them for repairs, and the company sued the defendants in detinue.*

*Held, that the defendants were entitled to a lien upon the taxicabs for the amount of repairs unpaid, and had not lost it by claiming a larger sum than they were entitled to, but could not now appropriate the payments made to them by B so as to attribute the whole balance due to repairs only.*

Appeal from a decision of Swift, J. The plaintiffs let three taxicabs to Botfield under hire purchase agreements which provided that he should have no authority to create a lien upon them for repairs. Botfield garaged them and two other cabs at the defendants' garage, paying weekly for rent, petrol oil, etc., and necessary repairs. Botfield being in arrear with his payments to the plaintiffs, they determined the agreements and demanded back the three cabs. At that time the balance due from Botfield to the defendants was £113 18s. 3d. and they claimed a lien upon the cabs for that sum. The plaintiffs refused to recognise the lien, made no tender, and sued the defendants in detinue. Swift, J., held that the defendants were entitled to a lien for £94 11s. 2d., and dismissed the plaintiff's action. The plaintiffs appealed. *Cur. adv. vult.*

Lord HANWORTH, M.R., having stated the facts, said that as the accounts were delivered and payments made weekly the defendants could not make the appropriation they claimed. The creditor had determined his choice, and the accounts could not be re-opened : *Simson* v. *Ingham*, 2 B. & C. 73. However, there remained unpaid certain items of repairs which would afford the defendants the right of lien though for a much smaller sum than the £94 11s. 1d. claimed. The contract between the plaintiffs and Botfield could not defeat the defendants' right of lien, as it was a right which came to them, not through, but against Botfield : *Green* v. *All Motors Limited*, 1917, 1 K.B. 625. Further the lien was not lost by the despatch of the taxicabs from the garage for use in daily hire : Botfield had agreed that the taxicabs, even if permitted to leave the garage, should be treated as in pawn. The further question was whether the defendants had lost their lien by their demand for a much larger sum than that for which the lien stood good. In his lordship's opinion it was clear from *Scarfe* v. *Morgan*, 4 M. & W. 270, that they had not. The defendants had not waived their right to have the true sum tendered to them, and the plaintiffs were never ready to make any tender to satisfy the lien. The defendants therefore were entitled to refuse delivery of the cabs, and their defence succeeded, but the case must be sent to an official referee to determine the exact amount for which the lien held good. The appeal failed, but as each side had pressed for too much, there would be no costs of the appeal.

SCRUTTON, L.J., and SARGANT, L.J., delivered judgment to the same effect.

COUNSEL : *E. W. Cane*, K.C., and *A. E. Woodgate ; Serjeant Sullivan*, K.C., and *Martin O'Connor*.

SOLICITORS : *Amery, Parkes & Co. ; Edmund O'Connor and Co.*

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

# THE LAW SOCIETY AT SHEFFIELD.

## ANNUAL PROVINCIAL MEETING.

(By our Special Representative.)

Sheffield was chosen as the venue for the Forty-fourth Annual Provincial Meeting of The Law Society, which opened at the Town Hall on Monday, the 26th September, and continued on the following Tuesday, Wednesday and Thursday.

### Reception by the Lord Mayor.

The proceedings opened on Monday evening with a reception by the Lord Mayor (Alderman J. G. Graves) and the Lady Mayoress at the Town Hall, which was attended by about 400 members and guests. An excellent selection of vocal and instrumental music was followed by dancing.

### Welcome to Sheffield.

The Lord Mayor presided at the commencement of the business meeting on Tuesday morning. He was supported by the President and the following members of the Council, viz.: Mr. C. E. Barry (Bristol), Mr. E. E. Bird (London), The Right Hon. Sir William Bull, Bart., M.P. (London), Mr. A. H. Coley, LL.D. (Birmingham), Sir Robert W. Dibdin (London), Mr. B. H. Drake (London), Mr. Richard Farmer (Chester), Mr. W. H. Foster (London), Mr. Dennis Herbert (London), Mr. Randle Holme (London), Mr. Alan F. Maclure (Manchester), Mr. C. G. May (London), Sir Charles H. Morton (Liverpool), Mr. W. H. Norton (Manchester), Sir Arthur C. Peake (Leeds), Mr. R. H. Pinsent (Birmingham), Mr. Harry G. Pritchard (London), Mr. H. H. Scott (Gloucester), Mr. B. A. Wightman (Sheffield) and Mr. E. R. Cook (Secretary).

The Lord Mayor of Sheffield tendered a very hearty welcome to the visitors on behalf of the City. He said that Sheffield recognised that the profession of the law was of the oldest, for, as far back as human history reached, men had felt it necessary to secure their possessions by formal documents. We had in our own day documents of this character belonging to the Egyptian times of 3,000 or 4,000 years ago, and these title deeds in burnt clay from the Babylonian and Assyrian days were the pride and interest of our museums. Probably far beyond those days the profession of the law existed. The whole structure of civilisation, if it was to endure, must rest upon the foundation of law and order, and if the foundation was badly laid sooner or later the superstructure would crash as we had seen in many countries in our day. Our present stability and confidence in the future was due to the fact that the foundation of our national life rested upon laws which embodied the wisdom and experience of the ages, and which had behind them the freest legislative assembly in the world, and the sanction of an electorate in which every man of full age had a voice, and equal in importance with just laws came the confidence that they were impartially administered. We were all at one in our complete confidence in the fairness and impartiality with which the laws on the Statute Book were administered. The impartiality of our judges and the ability of lawyers—solicitors and counsel—who practised in our courts was unquestioned. (Applause.)

The Lord Mayor then vacated the chair, which was taken by the President of The Law Society (Mr. C. A. Coward, London), who delivered the following address:—

In presenting my address I find it somewhat difficult to select the subjects that can advantageously be discussed before an assemblage of this character. It is desirable that they should not be of too abstruse or technical a kind, but this is not easy when dealing with legal matters.

There have been many changes in the laws of this Country and it would not be possible to consider them in the detail necessary for a proper understanding of their effect within the time which is open to us. The view of a brilliant writer occurs to the mind. He was oppressed with the abundance of the materials available for his purpose and felt that there was but one course to adopt, he proposed "to row out over that great ocean of material and lower down into it here and there a little bucket which will bring up to the light of day some characteristic specimen from those far depths, to be examined with a careful curiosity." Upon this footing a few subjects of more than passing interest may be dealt with and the rest be, as it were, jettisoned.

It would be of interest to consider the position, progress and functions of the two branches of our profession, the more efficient administration of justice, the development of joint stock companies, proceedings by and against the Crown, changes in the law and practice of carriage by sea, and the effect of legislation and progress in these respects during the last half-century.

I may commence with a reference to the position of the two branches of our profession and consider what features they have in common, the education which each provides, and whether it is desirable that there should be a closer union between them.

First dealing with the Bar.

Sixty years ago to qualify for call to the Bar it was necessary for non-university students to pass a preliminary examination in the Latin language, the English language and English history. The student had then to eat a prescribed number of good plain dinners provided by his Inn at a very moderate price, with, if I remember rightly, a bottle of wine between four students. He had in addition either to read for a year in the chambers of a barrister or special pleader or pass an examination in civil and international law, constitutional law and legal history, common law, real property, conveyancing and criminal law. These subjects were all taken at the same time, not as now in sections—the examination lasted for three days. The qualification by examination was a far more rigorous business than the other alternative of a year in chambers where the student was relieved from going before examiners and was enabled without more ado to don his wig and gown and practise his profession. Certainly a year passed in chambers afforded but little opportunity for acquiring adequate knowledge of principles and practice. At the present time it is required that the student should pass an examination.

Now with regard to the solicitor.

The qualification for a solicitor was sixty years ago regulated by the Act of 1843 and involved service under articles for a period of five years, whether the clerk had taken a university degree or not. In the former case under the Act of 1860 the period under articles was reduced to three years. Even before the Act of 1843 under Rules of Court, members of the Council were appointed with certain officers of the court to examine applicants who had served their articles, but no preliminary examination was required until the Act of 1860, when the judges were authorised by s. 8 to make regulations for a preliminary examination in general knowledge, and by s. 9 an intermediate examination was directed "to ascertain the progress in acquiring the knowledge necessary for rendering them capable to act as attorneys and solicitors."

Thus the education of the students at this period was more exacting in the case of solicitors than for the Bar, a difference which is perhaps maintained to the present day. Indeed, consequent upon the provisions of the Solicitors Act, 1922, the curriculum of the solicitor student has been rendered still more severe, as unless he has taken a university degree after passing a final examination in law, or is what is commonly known as a ten-year man, he is required under s. 2 of that Act to attend compulsorily at a school of law provided or approved by The Law Society for the period of one year.

There is one question which appears to be worthy of serious consideration. The efficient study of modern languages is not insisted upon either with us or the Bar.

In our profession practical knowledge of either French or German at any rate is almost essential. Business methods are not what they were. Large numbers of the banks, mercantile houses and firms do important business with the Continent. If not essential it is important that legal advisers here should be able at any rate to understand one or more of the languages in which such business is conducted. It may be said that the necessity for such extended knowledge only arises in the case of the few who are called upon to give advice and assistance in matters of such a kind. Possibly so, but young men entering the profession would do well to add to their equipment by spending a few months in either a French or German family. This can be done at little expense as the cost of living in such circumstances is small. We constantly hear of the difficulties in the way of those who enter the profession without interest or opportunities provided for them. They certainly would obtain great advantage over their fellows if their education enabled them to undertake a class of work which many of their competitors could not for want of the requisite knowledge attempt.

The necessity for study in both branches of the profession has been vastly increased by the recent Law of Property and

other Acts of Parliament which have subverted principles taught and acted upon for centuries and have necessitated fresh studies not only by students, but on the part of those well on in life. It is not proving an easy task. At the same time work under the new legislation is being honestly and ungrudgingly carried out, and it is hoped that the public may in due course reap the advantages which some anticipate, though it is right to say that others are of opinion that there may result an amount of litigation which may not be altogether unprofitable to them. It may be hoped that their views in this respect may prove to be unduly sanguine.

Of course both branches of the profession experience the same difficulties. Both are alike affected. They now practically undergo the same class and extent of education and it is suggested by many persons in both branches that no good reason exists why the two branches should remain separate. It may be seriously doubted whether an amalgamation would be advantageous especially with those engaged in commercial business. To advise in such cases efficiently the solicitor to-day should be an expert in the various modes in which business is conducted, the forms of contracts in use and the way generally in which business is done. A large proportion of questions which arise are solved in one way or another with the aid of the solicitor without litigation and do not go before counsel at all. Again, we are accustomed to advise clients upon questions between landlord and tenant, master and servant, light and air, nuisances, contracts of all kinds, bankruptcy, litigation, settlements of property on marriage and its disposition by will and on countless other subjects, and to assist them with our experience in solving questions which arise in the ordinary affairs of life with which speaking generally, counsel is not so familiar. It is not therefore difficult to see that a counsel could not readily join our branch of the profession with sufficient knowledge and experience to advise immediately upon questions that would constantly come before him.

On the other hand, there would seem to be no difficulty in a member of our branch at once becoming an active member of the Bar. Many solicitors are experienced and skilful advocates which is the only branch in which perhaps the general experience of the Bar exceeds our own. There is, however, a further point to be borne in mind. It has become the practice, with men at the Bar more especially, to specialise in particular subjects, such as the very abstruse law relating to income tax, conveyancing, parliamentary practice, admiralty practice, commercial law, divorce, patent cases and criminal law. Many attend only to one or other of these separate branches to which, speaking generally, they confine their practice. They are probably not similarly familiar with the infinite variety of questions which the solicitor has to solve and consequently the change from one branch to another would not be altogether satisfactory.

It may well be doubted whether we could advantageously adopt the American plan of having several members of a firm of whom one or more should devote themselves to the task of advocacy. The objection would be that the advocate partner could not possibly be an expert in all branches of litigious work, in which case the client would be better served by an independent advocate who was in fact an expert.

The question of facilitating the change from the one branch to the other is still under discussion between the Bar Council and ourselves.

There are other matters to be taken into account in considering the expedience of the amalgamation of the two branches. There is certainly more drudgery in the duties of a solicitor than in those of a leader at the Bar, probably more so even than with a junior. To do his work properly, in litigious work especially, the solicitor must know not only the facts but the law applicable to the case, otherwise he will be unable to direct his mind to the points to which the selection of the correspondence and the evidence of the witnesses should be directed, and he must be familiar with the law of evidence. A counsel to whom a well-prepared case or brief is delivered is obviously relieved from the drudgery which the solicitor has undergone in its preparation and may direct his mind to the question how the case should be answered or the facts presented to the tribunal in the most effective way. Under the present system counsel is able to offer the advantage of an entirely fresh mind to the consideration or discussion of the case.

There is another consideration which must not be overlooked. Fees at the Bar have increased enormously of late years. Some few years ago I happened to come across an original brief in a case of Anderson against the Royal Exchange. It was an action upon a policy of marine insurance, which was tried before Lord Ellenborough and a Special Jury at the Guildhall in London in Trafalgar year, 1805. Lord Erskine, then at the Bar, appeared for the defendant with the Solicitor-General and Mr. Parke. The brief had Lord Erskine's notes upon it. It was marked with a fee of 10 guineas. The outer sheet is now in the archives of my old Inn—the Inner Temple. Such a brief, if delivered to Counsel of equal eminence, would to-day be marked with a fee of at least 100 guineas. The case is referred to in "Arnould" and is reported in "East." It is not without interest that Lord Erskine was made Lord Chancellor in the following year.

When Lord Herschell was at the Bar he was content with a fee of 10 guineas to advise upon a case, now a fee of 30-50 guineas is required by some Counsel for an opinion upon a "backsheet." Lord James of Hereford practised in his early days in the Mayor's Court in London and as a K.C. accepted briefs there with a fee of 10 guineas. What corresponding fees would be paid to-day, when fees to advise and brief fees are asked, and paid, of enormous sums with refreshers upon a similar scale? It must be borne in mind that the rules of the Bar require that a junior shall be paid a fee varying with that of the leader, without regard to the relative merits of the two recipients. It may be questioned whether these enormous fees have benefited the Bar or ourselves. At any rate it may be assumed that no Counsel who is in a position to earn such fees would desire to change to our branch, certainly he would find that the remuneration allowed to us is based upon a very different scale. On the other hand, a Counsel who had tried but had failed to make a successful career at the Bar could hardly hope to be more fortunate with us.

In all the circumstances it may be considered that at present nothing further can be done with regard to amalgamating the two branches than to endeavour where required that the transition from one branch to the other shall be simplified and expedited as much as possible.

Before leaving the subject of Counsel and their fees, there is a matter connected with the practice of the Bar which merits a passing word. Is it expedient that the remuneration of barristers' clerks should, as now, be paid upon the basis of a percentage upon the brief fee by the lay client, not by the barrister, his employer? It is not included in the fee marked upon the brief but is an addition to it. The result, of course, is that the greater the fee upon the brief the more does the clerk benefit. The brief fee has long since in practice ceased to be a mere honorarium. The amount is now frequently made a matter of bargain between the solicitor and Counsel's clerk, who has, of course, a direct interest in any increase, a process in which the Counsel may have no direct interference. It is not every solicitor who has the decision to say that he will have no bargaining and that if the fee be deemed insufficient the brief need not be accepted. It may be assumed that any competent solicitor who has prepared a brief for trial knows the character and difficulty of the case and what is a proper and adequate fee to be marked, whilst Counsel's clerk knows nothing but what the bulk of the papers may indicate. The adequacy of the fee can only be determined by a perusal of the whole case. The solicitor should, and does, stand between his client on the one hand and Counsel on the other, and should see that the Counsel is adequately remunerated and that the client is not called upon to pay a fee out of proportion to the work to be done. It is by no means unusual when a brief has been delivered to find that the fee is criticised by Counsel's clerk for its inadequacy on the ground that the opponent's brief has been more highly marked. My old partner, Sir John Hollams, used to say that the incompetence of his adversary in marking a fee afforded no ground for asking him to increase a fee he had marked after due consideration. Such an objection does not, of course, emanate from the Counsel, but it seems to demonstrate that the present system of remunerating Counsel's clerks needs revision. Needless to say such bargainings as occur are very distasteful.

I will now offer a word upon legal procedure.

The passing of the Judicature Act of 1873 and its amending Acts simplified legal procedure and did away with many anomalies and inconveniences which previously existed. The reforms thus introduced were followed in 1894, after many abortive attempts, by the establishment of the Commercial Court, which has at any rate recently been presided over by judges of experience in that branch of the law and the practices and usages of merchants, and who can therefore far more readily appreciate the difficulties which arise and the nature of the questions to be decided than those who have not had such experience. It is obviously desirable, indeed imperative, that a judge trying a case involving, for instance, the liability of marine underwriters should be familiar with the ordinary forms of policy, charter-parties, bills of lading or mercantile contracts generally. Obviously, familiarity with the subject leads to greater rapidity in the trial of such cases at much diminished cost and with a far more satisfactory outcome. It seems difficult to understand how with such advantages there was opposition to the scheme for founding the Commercial Court. It was consequent upon the great interest

taken in the subject by the late Lord Gorell and Lord Justice Mathew that it was ultimately adopted and made workable. The establishment of that court has had far-reaching effect. One thing is assured, with cases tried in the Commercial Court, the litigants not only have a judge familiar with their customs and practices, but there is a Bar which is also fully competent to present the cases as they should be presented.

The administration of justice in this Country affords ground for the envy of other nations. There is no country where the law is administered with more fearlessness and impartiality. This is constantly shown when revenue cases are disposed of. Certainly our courts are rightly regarded by foreigners, both lawyers and laymen, as affording a great example in this respect. Especially is this noticeable in shipping cases in which our Admiralty and the Commercial Court are more particularly concerned and which are known throughout the world for their efficiency. Indeed the attitude the judges have assumed in protecting the subject from attempted inroads by the executive is worthy of all praise. This absolute impartiality of outlook and action emphasises the obvious objections to a character of legislation which has become by no means infrequent of leaving questions eminently fitted for the judges to the decision of tribunals of an extra legal character, a system which cannot be too strongly criticised.

It would seem to be forgotten that our ordinary tribunals are presided over by judges who have been trained during the best years of their lives in the conduct of litigation, the practice of the law and the administration of justice, a training which necessitates great study and application. How can such a tribunal be compared with one which is set up for instance under the Acquisition of Land (Assessment of Compensation) Act, 1919, or s. 84 of the Law of Property Act, 1925, or under the Landlord and Tenant (No. 2) Bill now before Parliament, and which will be composed of persons of no legal training whatever, who are unused to hear and appreciate the weight, importance and effect of evidence in the same way or to anything approaching the same extent as those whose lives have been spent in such work. What importance is likely to be attached to a tribunal of such a character and what are the litigants likely to think of its decisions? What again is likely to be the relative cost as compared with a decision of the ordinary courts? It may be that it will be found not only excessive but that the decision itself will be unsatisfactory. It is further to be noted that whilst in the case of persons appointed under the two former Acts they are not permitted to engage in private practice or business no such stipulation is to be found in the Landlord and Tenant (No. 2) Bill. They may be persons still in active practice.

Another class of case is where a judge is left to determine not what the law would give, but what he in his discretion may think ought to be done in what is called "Justice between the parties." For example, under the Courts Emergency Powers Acts, 1917 and 1919, where satisfied that owing to certain causes occasioned by the war a contract could not be enforced without serious hardship the court might suspend or annul the contract or with consent amend it. This enactment in the experience of many practitioners worked far more hardship than was ever contemplated and cast upon the judges a novel jurisdiction which they could not satisfactorily exercise. In this connection the words of Lord Camden may be not inaptly quoted. They certainly are trenchant and will be found in a note to Fearnes Contingent Remainders, 10 Ed. (1844), p. 534. He said:—

> "The discretion of a judge is the Law of Tyrants: it is always unknown: it is different in different men: it is casual and depends upon constitution, temper and passion. In the best it is oftentimes caprice: in the worst it is every vice, folly and passion to which human nature is liable."

In Gibbon's "Roman Empire" a similar view is expressed. After contrasting the summary methods adopted in other countries with our own more deliberate procedure, he says:—

> "Our calmer reflection will suggest that such forms and delays are necessary to guard the person and property of the citizen, that the discretion of the judge is the first engine of tyranny and that the laws of a free people should foresee and determine every question that may probably arise in the exercise of power and the transactions of industry."

It must be remembered that when people enter into contracts they should have in mind the probable alteration of circumstances, and should provide against possible hidden changes. A man who makes a contract upon the footing that he will deliver goods c.i.f., i.e., with the cost of the goods freight and insurance paid, must either already have the goods or contract for their purchase and the cost of transport and insurance or run the risk of a rise in either market. Who would have thought in such a case that the seller was entitled to ask for a revision of his contract because freights had risen and it proved that he had made a losing bargain? As reasonably might the seller ask for rescission because a cargo of grain he had sold c.i.f. proved on arrival, as is often the case, to be worth thousands of pounds more than the contract price. The fact is that people who make contracts must fulfil them. It is dangerous for the law or judges to attempt to re-model them.

Certainly the duties of the judges should be confined to administer the law and no greater burden should be cast upon them.

I have not hitherto referred to the benefits resulting from the passing of the comparatively recent Criminal Appeal Act, 1907. Who can doubt the wisdom of the measure? It has at any rate allowed a person convicted of a crime to test the validity of his conviction and of the sentence passed upon him before a tribunal of able judges. Many a conviction has been thus quashed or the sentence has been modified or increased. The unfortunate incidents in the recent case of Vanzetti and Sacco in the American courts could not have occurred in this country. One fact in particular in relation to that case strikes one as anomalous, that the Governor of Massachusetts, to whom an appeal was made, should have appointed a committee, one of whom only appears to have been connected with the law, to consider the voluminous evidence and report to him upon the propriety of the outcome. What value could be attached to the report of such a tribunal?

It would be well to add a word perhaps with regard to the House of Lords and Privy Council. Both tribunals in their present form are comparatively modern institutions. Whilst they are separate courts they exercise analogous jurisdictions. The House of Lords determine appeals from the decisions of the inferior courts of this country, whilst the Privy Council decides appeals from the courts of our dominions. Since the year 1871 these courts have been strengthened from time to time and the jurisdiction which each shall exercise has been defined. But for practical purposes they may be treated as one, there being no appeal from either. It is therefore essential that they should be so constituted that their judgments should be prompt and recognised as that of tribunals of the very highest status and authority and such as shall cause their decisions to have undisputed respect.

In this connexion reference may be made to a letter written on the 26th June, 1850, by Charles Purton Cooper to the then Prime Minister, Lord John Russell, in which, in advocating the constitution of an Appellate Tribunal in substitution for the then House of Lords, he refers to a letter in the following terms, written upon the subject:—

> "This court should be composed of judges who have already presided in the Courts of Equity or Common Law and who having sat there for a number of years have retired from them at an age when the too great fatigue of labour has not enfeebled them or rendered them incapable of being of service to their country when placed in a court of the highest rank but the duties whereof would be less laborious. . . . A court so composed and moreover sitting at the same time with the other courts would enjoy a consideration infinitely greater than that of the House of Lords and would be equal to the disposal of all the Judicial business."

This letter is to be found in a book of 172 pamphlets on law, 1838-1852.

The Lord Chancellor, in a speech at the Mansion House in London on the 17th June last, intimated an intention to take steps to strengthen the Privy Council by the addition of two new judges to deal with Indian appeals. He has since referred to the matter in the House of Lords and has intimated that the judges to be thus appointed should be subject to an age limit. Whether such an addition would meet all present requirements and place the ultimate tribunals in an unassailable position of strength and prestige or what further might be desirable for this purpose is open to question. The cases which now come before the Privy Council are far greater in number and importance and come from a far greater number of countries than in times past, and it is therefore more important than ever to see that the decisions are those of a tribunal composed of persons of such eminence and knowledge that their judgments shall outweigh those which could be obtained from any other tribunal. Unless the Privy Council maintain such a standard there is risk that our fellow subjects beyond the seas may hesitate to appeal to an uncertain tribunal and may prefer to abide by the decisions of the courts of their own country. One subject may be worthy of consideration. There is at present no age limit applicable generally to the members of these courts. This would seem to raise a question of moment. It is not clear why if an age limit can be imposed it should not be applied to all appointments to be hereafter made. There are great and obvious difficulties in the way of providing and maintaining a court which shall at all times be of so superlative a character but obviously every effort must be made for this purpose.

It is to be borne in mind that the members of the Privy Council, after hearing a case, deliver a single judgment

indicating the advice they propose to offer to His Majesty upon which the formal judgment is based. No one is told whether the judgment is unanimous or not. It is delivered as one final judgment. In the House of Lords on the contrary each member of the tribunal delivers his own judgment and a difference of opinion is frequent. It may be thought that no such judgment can be deemed satisfactory merely because there is a simple majority. As an illustration reference may be made to the recent decision in the *Archer-Shee Income Tax Case*. The judge of first instance decided in favour of the Crown. The Court of Appeal consisting of three judges unanimously reversed that judgment. In the Lords three judges were in favour of the Crown and two very able judges were for affirming the judgment of the Court of Appeal. In the result therefore there were in all the courts four judges in favour of the ultimate decision and five against it. Can this result be considered satisfactory? Would it not be wise in such circumstances to have a case re-argued, possibly with the assistance of judges from the ordinary courts?

I approach the next specimen which my bucket has produced with some hesitation. It deals with a somewhat delicate matter. We have seen a complete change in the status and rights of women. The Married Women's Property Act of 1870, followed by extensions in 1874, 1882 and 1893, the Deceased Wife's Sister's Marriage Act of 1907 and the Sex Disqualification Removal Act of 1919 have introduced still further and far-reaching consequences. We now see women not only vying with men in athletic pursuits and forsaking the old-fashioned drudgery of house-keeping but becoming educated to the same extent as men, taking high degrees at the Universities and entering the learned professions. Certainly in the medical profession they have made distinct progress and fittingly occupy important positions with the happiest results. Hitherto it may be questioned whether they have been equally successful in their efforts to attain success in the law. It is true that a few have entered our branch of the profession and some have gone to the Bar. None has however hitherto attained any remarkable success as an advocate, though this again may occur in time. Portia probably succeeded as she did not by knowledge of the law, even of Venice, but by her unhesitating assurance and persistency in laying down what she said was the law in definite and indisputable terms and by her charm of manner and winning ways in doing so. Perhaps she was impressed with the view :—

> " In law, what plea so tainted and corrupt
> " But being seasoned with a gracious voice
> " Obscures the show of evil."

There is no reason why the fair sex should not succeed in either branch of the law. They certainly possess the attributes which have made Portia so famous amongst us. However this may be, we shall welcome those who join our profession, whether as solicitors or at the Bar, with what is figuratively described as open arms and can assure them that they may with every confidence look forward to enjoy that position which their knowledge, judgment, skill, ability and discretion may properly justify.

In one other respect the fair sex have opened up a new and ambitious career. Our legislators now have their assistance in Parliament. Their character of mind, industry and knowledge enables them to fulfil duties, especially in social legislation, with more zeal and with possibly greater effect than would be achieved by men. They have done and may continue to do great good to our Country and we may properly congratulate them upon their success.

In one respect women are still favoured by our law as, unless traders, they may incur debts to any extent with at any rate the knowledge that they are not subject to the bankruptcy laws.

I now propose with your sanction to say a word about joint stock companies. It seems almost incredible having regard to the enormous number of joint stock companies now actively engaged in business transactions that the system is of the most modern growth. Limited liability is, of course, the *raison d'etre* of such companies, and this was not obtainable, in this form at any rate, until the year 1844. So far as one can judge at the present time the great advance in the formation of such companies did not occur until after the Act of 1862, subsequent to which some sixteen amending Acts were passed prior to the Consolidation Act of 1908, followed by the Acts of 1913 and 1917. Recently, a powerful committee has sat to consider desirable amendments of the law, and they made an elaborate report upon which a new Bill is now before Parliament. This Bill has received exhaustive consideration by a committee of this Society, who submitted many important recommendations to the authorities in charge of the Bill, which have been for the most part adopted. An important part of the Bill imposes greater responsibility upon directors who will find difficulty hereafter in sheltering themselves from liability merely on the ground that a company's embarrassments arose without actual default in the performance of their own duties. It is stated that when this Bill is finally passed it will be followed by a consolidating measure. Unless this be the case there is likely to be great trouble and confusion occasioned to the practitioner.

Another important subject for consideration arises with regard to proceedings by and against the Crown. This is a very thorny subject and no doubt requires legislation of a thoughtful kind.

The rights of the subject in these cases are by no means in a satisfactory position. A committee was appointed by the Government many months ago which has recently reported. To the report is scheduled a Bill in Parliament which the committee recommend. Nothing has however as yet been done upon it. It is said that the report is still under consideration. Probably the rock upon which the scheme may be in danger is with regard to the discovery of documents. The subject, whilst compelled to produce his own documents upon oath, has at present no corresponding right of discovery against the Crown, whose documents are produced *ex gratia*. The proposed Bill provides that the Crown shall give discovery, but may protect documents upon a certificate of the acting head of the Government department concerned indicating that their production would be injurious to the public interest. The official is to be the sole judge of the accuracy of this assertion. There is no appeal nor any right on the part of the judge to test the truth of what may be thus certified. Why should not the judge be satisfied that any protected document is one which is entitled to privilege? Why should the *ipse dixit* of an official suffice? Is it to be suggested that even the judge cannot be permitted to see the documents without its being injurious to the public interest? This is another subject which has been seriously considered by our council and is of the greatest importance. It is certain that in the past litigants against the Crown have been unfairly dealt with and in many cases have received scant justice. The conduct of officials generally arises in these cases. They, like other people, commit errors and are not anxious to admit that they have been in the wrong, nor are they likely without a struggle to produce documents which are calculated in any way to weaken their case or to hold them up to censure or criticism. What is more easy than for an official to certify that the production of documents of an incriminating nature would be injurious to the public interest and thus protect them?

Another subject which may be usefully referred to is that of carriage of goods by sea.

There has been an immense advance in the means of such carriage. In the middle of last century transit between this and other countries was by sailing ship alone. Ships of 1,000 tons were considered large vessels. In sailing upon long voyages they used to carry not only cargoes but passengers. There were no other means of transport. There were no such things as refrigerating chambers. Consequently ships carried drinking water in casks, cows to give milk to the passengers, sheep and pigs to furnish them with fresh meat and poultry stowed in pens round the deck. The ships were in those days advertised to carry experienced surgeons, a very necessary precaution when a voyage for instance to Australia lasted for 100 days or often considerably longer. There were no means of carrying meat from distant countries. These sailing ships have now so far as this country is concerned been swept completely off the seas. They exist no more, except in such old relics as the " Cutty Sark," which is preserved as a glorious specimen of our mastery of the seas in the sixties, when our China and Australian clippers made such wonderful passage. They have seen their day. There are now only a very few sailing ships upon the British Register. They have been supplanted by the Leviathans and floating palaces of modern times, of great speed, with elaborate accommodation and fitted with every luxury which the most profligate parvenue could desire. By means of refrigerating chambers, steamers are able to import from our Colonies and elsewhere hundreds of thousands of carcases of sheep and cattle, fruits, butter and cheese, which they deliver here in perfect condition, to the enormous advantage of our Colonies and ourselves.

In the early days of which I have spoken the shipowners by the bills of lading admitted the receipt of the goods in good order and condition and undertook to deliver them in the like good order and condition unless prevented by perils of the sea, the Act of God or the Queen's enemies. They absolutely guaranteed that the ship was seaworthy, but the introduction of steam was accompanied by all sorts of additional risks against which the shipowner endeavoured to protect himself, and this involved the complete alteration of the forms of bills of lading so as to exclude perils which in the old sailing ship days had never been thought of. Exceptions were introduced which no one could read without the assistance of a powerful microscope, and when read were of so complicated and

uncertain a nature, as to cause much litigation and many an appeal to the House of Lords. The far greater value of steamships and the need for rapid transit made it also necessary that greater despatch should be used in loading and unloading cargoes and that compensation should be paid for detention. These changes in the conduct of shipping business were productive of great litigation both with regard to liability upon charter-parties and bills of lading and under policies of insurance effected by merchants and shipowners to cover their interests. The principles of the law of marine insurance which had been greatly elaborated as the result of decisions upon all sorts of questions in recent years, have now been codified in the Marine Insurance Act, 1906, which has proved satisfactory as a codifying measure.

With regard to the shipowner's liability for carriage of goods, International Conferences on Maritime Law were held in Brussels in October, 1922, and October, 1923, and resulted in the adoption of a convention for the unification of rules relating to bills of lading and by the Carriage by Sea Act, 1924. These rules which are scheduled to the Act are to have effect.

These International Conferences are still being held. The subjects discussed which have recently interested me have been compulsory insurance against passenger risks at sea, and the question of "Clean bills of lading." The latter question is one which is certainly of great importance. Where goods are shipped abroad it not infrequently happens that the ship's chief officer who is responsible for the due receipt and stowage of the cargo, objects that the goods are not in good order and condition whilst the ordinary form of bill of lading describes them as having been so shipped. The issue of the bill of lading is in such cases refused. The shipper then frequently offers to guarantee the ship against liability and thereupon, if the guarantee be sufficient, the bill of lading is signed. When the ship arrives, if the consignee complains of the goods he is told that the bill of lading shows that the goods were sound when shipped, that the damage must be attributable to sea perils and that he must look to his underwriters for redress. Obviously such a system is open to great frauds, and it may be hoped that a satisfactory means may be found of preventing them.

The expedience of affording a right to arrest property of foreigners to found jurisdiction against them in our courts was, within the last few years, referred to a strong Government Committee, under the chairmanship of Lord Sumner, than whom no living judge has had a wider experience in commercial matters. Upon the recommendation of that committee alterations were made in the Rules of Court as a tentative measure, which greatly extended the jurisdiction against foreigners. The question has recently been revived and it is again sought to apply the Scots procedure. The Lord Chancellor before the Vacation, appointed another committee which is about to consider the subject. Whilst the questions which arise are of great public interest and importance, it is inexpedient that I should, in the circumstances, now make any observations or express my own personal views upon them.

The subjects I have selected as my specimens are an infinitesimal portion of the matters upon which there has been legislation during the last fifty years, and many will doubtless think that more illuminating examples of the progress we have made might have been taken. It will, however, suffice if the subjects considered offer matters of interest which I trust will in any case show that we have not been retrograde.

I have now dealt with the subjects which I had proposed to consider, but there is still one matter which I should like to mention and which should be dear to all of us.

It is of the utmost importance that we should each one of us do our utmost to maintain and uphold the prestige and honour of the great profession to which we belong. I maintain without fear of objection that there is no profession in which its members have greater opportunities of doing good, of counselling wisdom, of showing a sweet reasonableness, of seeing that right is done, of composing differences and preventing undue litigation.

Our Society is one which lends itself to the encouragement and enforcement of our principles. It rests upon charters granted to us by the Crown under which it has great powers. It is desirable that the Society should have the unqualified support of every member of the profession. At present there are about 15,000 solicitors in practice, of whom 10,000 odd are members of the Society. It would add to the weight and importance of the Society if the remaining 5,000 were also members. I would therefore urge every member to induce others to join. The cost is trifling. In the case of country members it is but one and a half guineas a year, and for that there is provided the conveniences of a comfortable club and the use of an excellent library.

I hope I may claim on behalf of the Society that it has recently succeeded in obtaining a position which greatly adds to its prestige, dignity and importance. We are all Officers of the Court and were and still are subject to the jurisdiction of the court in case of any professional misconduct. Until the year 1919 the court alone decided whether there had been professional misconduct on the part of a solicitor, and if so what penalty should be imposed upon him. The profession had no voice in it. We were in this respect in a very different position to that occupied by the other learned professions. The Act of 1919 entirely altered the procedure in this respect and vested in the Disciplinary Committee of our Society the power not only of hearing charges of professional misconduct brought against members of the profession but of making such orders as to striking a solicitor off the Roll or suspending him from practice as was previously vested in the court. So that a person against whom any such charge is now brought has it investigated and adjudicated upon by practising members of standing in his own profession who are most fully competent to appreciate the facts and to form a just conclusion upon them. The original jurisdiction of the court has been preserved by the Act of Parliament but since the Act no direct application has been made to the court against any solicitor for professional misconduct, and so long as the Discipline Committee do their duty the right of interference of the court may for practical purposes be treated as negligible. There have been but few appeals from the decisions of the Committee, and such appeals as have been brought have been with, I think, one exception, dismissed with costs. The judges have indeed intimated more than once that we shall be masters in our own house, and that our decisions shall not be questioned or interfered with by the court unless it is apparent that injustice has been done. We may confidently trust that the future of our profession may, as in the past, be one of continued and satisfactory progress.

I may now say:

"Farewell, my blessing season this in thee."

Mr. EDWARD BRAMLEY (President Incorporated Law Society of Sheffield) moved a vote of thanks to the President for his address, which was carried with acclamation, and the President returned thanks.

---

## THE CONTEMPLATED CHANGES IN COMPANY LAW.

(By CHARLES L. NORDON, LL.B. (London).)

In view of the imminence of the changes in company law embodied in the Companies Bill now before Parliament (following the report of the Company Law Amendment Committee appointed by the President of the Board of Trade in February, 1925) it is desirable that every practising lawyer should direct his attention to this proposed scheme of legislative reform so that he may be prepared in advance to administer and advise upon it.

The productive investment of capital being of the highest national, commercial and industrial importance, it is essential to provide adequate safeguards for the protection of that large proportion of the nation's "savings" which annually seeks useful employment in the securities of limited companies.

The Bill introduces reforms of the greatest value, and a tribute of admiration is due to the committee presided over by Mr. Wilfrid Greene, K.C., on whose carefully drawn report it is based. In its present form, however (as printed on the 18th July, 1927), the Bill itself leaves much to be desired from the point of view of lucidity, convenient arrangement of sections and ease of reference. Its complexity will certainly tend to raise the calling of company director to the level of a "learned profession," for when once the Bill becomes law a director will be surrounded with pitfalls in every direction to escape which he will more than ever have to appreciate not only that "honesty is the best policy," but that he must attain to a far higher standard of industry and vigilance than was expected of the "guinea pig" director (who is still not so rare as we should like him to be).

The busy lawyer will find it highly inconvenient that the Act, consisting in its Bill form of 105 sections, is to be grafted by interlineation, substitution and addition upon the Companies (Consolidation) Act, 1908, which consists of 296 sections. The only way to understand and fully appreciate the bearing of the forthcoming legislation is to take the 1908 Act and laboriously write against each clause the alterations or additions to be made by the new Act. Another difficulty in this task lies in the unsatisfactory arrangement of subject matter, so that the law on any particular point has to be sought from sections widely separated both in the principal and amending Acts.

It is therefore to be hoped that when the Bill in its present form comes before the House of Commons in the autumn a codifying Bill may be substituted, in which so much as is left of the 1908 Act may be printed in the same context with the amendments and additions now to be introduced, so that

when the lawyer has to advise director, shareholder or creditor he need only look to one Act of Parliament in convenient arrangement, and so avoid the risk of having an opinion which he may form on certain sections rendered valueless by his having overlooked a line or sentence of another amending section or one of the numerous "minor amendments" printed at p. 95 in the Second Schedule to the Bill in a section by themselves. Over and over again has the lawyer, and especially the solicitors' branch of the profession, protested against legislation unduly complicated in language and inconvenient in arrangement, especially when the substitution or addition of words or sentences is indicated by reference only. It is of the essence of satisfactory legislation, especially when it contains provisions affecting the liberty of the subject, that its terms shall be clear and unmistakable, and not provocative of lengthy argument. Otherwise the aggrieved shareholder or creditor, or the uncertain and perplexed director, may be involved in the expenditure of much time and money and still be left undecided with regard to his rights, remedies or obligations.

With these general observations, it is now proposed to deal with the Companies Bill, 1927, and to direct attention to the important changes thereby proposed whilst indicating, in passing, other requirements that might usefully be introduced at the same time. It is obvious, however, that in a paper of this character it is impossible adequately to deal with the whole framework of the Bill, and therefore only the more important points of principle will be touched upon.

Section 5 of the Bill deals with the obligation to furnish a true copy of the last balance sheet audited by the company's auditors, but there is no definition of either the term "balance sheet," or the term "profit and loss account." It is highly desirable that there should be set forth in the Schedule to the Act a skeleton balance sheet and profit and loss account, to which directors and auditors must conform as nearly as possible. Some companies of late seem to think that a statement on the one side of the issued capital, and on the other the word "assets" (including balance of profit and loss account) will be sufficient for a balance sheet, and that the words "net trading profit" on the one side with an allocation thereof on the other will be sufficient for a profit and loss account as long as the one document is headed "balance sheet" and the other is headed "profit and loss account."

Section 7 limits the period within which a company is to furnish copies of the register of members to persons requiring and entitled to the same, and imposes penalties and provides for an order compelling compliance with this obligation.

Section 12 carries on to its logical conclusion the existing prohibition against companies dealing in their own shares, by forbidding not only the actual dealing, but also the lending or guaranteeing of money for the purpose of or in connexion with a purchase by any other person of shares in the company. Where this is done in contravention of the section, the company itself, as well as every officer, is to be liable to a fine not exceeding £100.

### Infliction of Fines.

There will be found in the Bill a number of other clauses which create offences, for the commission of which the company as well as its officers, is to be liable to fines more or less substantial (e.g., s. 27, which prescribes a fine on the company of £500 for inviting share or debenture subscriptions on an abridged prospectus). There seems a curious anomaly and inconsistency in this procedure. These penal clauses are inserted to protect and safeguard the shareholder or creditor against pecuniary loss. It is small consolation to the latter that the funds of the company in which he is a shareholder or creditor shall be still further depleted by the payment of a fine to the Treasury as the result of any criminal proceedings which he may institute. It is submitted that throughout the Act it should be provided that where offences have been committed the fines should fall not upon the company but upon the individuals who have been guilty of the acts or omissions constituting the offences. It might, of course, be otherwise if the act or omission resulted in a benefit to the company's shareholders or creditors, but as all the penalties imposed by the new Bill are for the protection of shareholders and creditors, it seems illogical still further to deplete the company's property by imposing a fine at the expense directly or indirectly of the already injured shareholder or creditor.

Section 13 contains an important provision for the protection of dissenting minorities of shareholders of a class from any resolution varying their rights. The holders of 15 per cent. of the issued shares of that class may apply to the court to have the variation cancelled. The decision of the court on any such application is to be final.

Section 14 gives power to a company, already so authorised by its articles, to issue redeemable preference shares subject to the following provisos :—

(*a*) That such share can only be redeemed out of profits available for dividend or out of the proceeds of a fresh issue made for the purposes of the redemption.

(*b*) Only "fully paid" shares can be redeemed, and

(*c*) That where shares are redeemed out of profits of the company, which would otherwise be available for dividend, there shall "out of profits which would otherwise have been available for dividend" be transferred to a "capital redemption reserve fund" a sum equal to the amount applied in redeeming the shares. (If, however, such profits have already been used *pro tanto* to redeem the shares, it is difficult to see how they can be transferred to the "capital redemption reserve fund" unless the section means that before a redemption can be effected out of profits the company must have twice as much undistributed profits as the amount of the share capital to be redeemed). Sub-section (1) (*c*), then goes on to provide that in such a case the capital redemption reserve fund is to be treated as if it were paid-up share capital, so that accordingly it must ever thereafter be maintained intact.

It is not thought that many companies will avail themselves of this provision as it is far too complicated, but those who have issued redeemable preference shares must give details thereof in their balance sheet.

Section 15 of the Bill deals with the reduction of capital, and excuses the company from using the words "and reduced" unless the court specifically orders. Sub-section (2) of s. 15 gives power to the court to dispense with the consent of creditors in certain cases.

### Capital Reduction Schemes.

Whlst on this subject of capital reduction it would be opportune for the legislature to provide that in certain cases a resolution for the reduction of capital shall not be confirmed by the court until after the expiration of a specified period following the resolution, and then only if the market value of the shares does not at that time exceed by (say) 10 per cent. the proposed writing-down value. We have had in recent years the spectacle of a company of first-rate industrial importance being invited by its directors and financial advisers to pass resolutions for the writing down of its share capital to 6s. 8d. per share. Thereupon the market price fell to 7s. 6d., at which price many shareholders were tempted, and in some cases forced to sell, only to find to their mortification a short time afterwards the shares rising up in value to 35s. This, of course, resulted in enormous profits being made by those possessing "inside" information, who knew that the writing down was really unjustified by the true value of that company's undertaking. (The principle of looking at "market values" is already in the Bill in connection with the issue of shares at a discount (s. 32).)

### Meetings and Resolutions.

Section 19 purports to enlarge the rights of shareholders with regard to the calling of meetings where the directors will not do so. In particular it gives power to any two members holding not less than one-tenth of the issued capital to call a meeting. This facility, however, is rather more apparent than real, for it only applies in so far as the articles do not provide to the contrary. It is probable that if the section be left in its present form most companies will see that their articles do "provide to the contrary." A useful provision is contained in sub-s. (2), which gives power to the court to order and control a meeting where all other devices have failed.

Section 21 alters the conception and definition of a special resolution which henceforward is only to require one meeting, and is only to differ from an extraordinary resolution by requiring fourteen days' notice of intention to propose it. This alteration is likely to expose shareholders to the risk of having constitutional changes rushed upon them, and may in practice deprive them of the power of applying to the court for relief, as to the necessity for which they sometimes cannot come to a decision until they have heard the facts and reasons on which a proposed resolution is based.

Inasmuch as the shareholders are constituted a tribunal for the determination of many matters of domestic concern, care should be taken that they are not exposed to the risk of improper influences being brought to bear upon them for obtaining their votes. Any inaccurate statement in a report, circular, or other document issued for the purpose of obtaining a vote or a proxy should be punishable. Moreover, attempts to influence the shareholders by "inspired" paragraphs in the press should be subject to some restriction. The practice has sprung up in recent years of directors paying newspapers large sums of money for inserting reports of the proceedings at their meetings. The majority of these reports are of no interest whatever to the general public, although they cost large sums of the shareholders' money. I have come to the conclusion that this practice is followed in many cases for no

other purpose than the desire of the directors to "stand well" with the press in case their views should at any time conflict with those of their shareholders. I suggest that it should be prohibited to spend the company's money on propaganda of this expensive and unnecessary character.

Section 24 seems to state a truism when it provides that—

> "A resolution passed at an adjourned meeting . . . shall be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date."

This curiously worded section is intended to override the decision in *Neuschild* v. *British Equatorial Oil Company*, 133 L.T.Rep. 227; 1925, 1 Ch. 346, but it is doubtful whether it does in fact do so in its present form which seems to beg the question.

DIRECTORS.

Section 25 deals with the register of directors and incorporates under sub-s. (5) the same extension of the term "director" (namely, as including any person in accordance "with whose directions or instructions the directors are accustomed to act") as is provided by the Companies (Particulars as to Directors) Act, 1917. The effect of this sub-section is, however, materially cut down by the insertion of s. 86 (which did not appear in the Bill as first printed). Section 86 provides that a person shall not be deemed to be a person in accordance with whose directions or instructions the directors are accustomed to act by reason only that the directors act on advice given by him in a professional capacity. As long, therefore, as the person desiring the benefit of control without the responsibilities of directorship takes care that the company appoint a professional man (who may be of the class which has recently become fashionable under the style "Financial Adviser"), the control may be well disguised, though just as effectual, in the form of "advice."

It is useful at this stage to bear in mind that from a judicial standpoint a director can seldom do more than advise. He is a member of a deliberative body, but has no executive functions except such as may be delegated to him by the whole board. As an individual member of the board he can give neither "directions" nor "instructions." He has no inherent right to enter the company's premises unless with the permission of a resolution of the board. He has no inherent right to see the company's books, though now that right is to be given to him by s. 34 (2).

It may well be, therefore, that as well under the new law as under the existing law, directors are to be punished for doing or failing to do that for which as individuals they have in strict law no power. With good reason may the committee report (p. 20):—

> "To attempt by statute to define the duties of directors would be a hopeless task."

As directors can only validly act when assembled at a board meeting, it may seem anomalous under the present or contemplated state of the law to hold them responsible for anything except resolutions passed or omitted at such meetings or for active breaches of trust. That being so, the time seems to be ripe for a re-survey and re-consideration of the whole system under which the administration of companies' affairs is committed to boards of directors as at present constituted. This consideration is the more pressing when we find counsel of such eminence as Mr. F. H. Maugham, K.C., contending, and with success, in the case of *Re City Equitable Fire Insurance Company, Limited*, 1925, 1 Ch., at p. 418 *et seq.*, for the following propositions (with a strong list of authorities cited in support) with regard to the liability of directors:—

> "Directors' duties are of a somewhat special kind. Their attention to the company's affairs is only of an intermittent nature, namely, at periodical board meetings. They are not bound to attend except at board meetings; nor are they bound to attend all board meetings. They are not bound to inquire into matters which are not brought before the board unless, indeed, they are put upon inquiry, by facts being brought to their attention which call for explanation. In other words, directors are not managers and do not contract to manage the affairs of the company. Directors who do no more than attend board meetings act honestly at them and abstain from probing into matters into which they are able to probe, but to which their attention has not been directed, are relieved from liability.
>
> "Directors do not in any way warrant that they are skilful or competent and they may be much the reverse without incurring liability. Accordingly they are not liable for errors of judgment and the care and diligence for which they contract are only such as are reasonably to be expected from them having regard to their personal capacity and experience."

Unless, therefore, we are to have some statutory authority or body corporate who will decide as to the fitness of a person before he can act as director, it would seem, in the interest both of shareholders and of directors themselves, that there should be some radical change in present methods. In Holland, for example, the board of directors as we know it in this country does not exist, but the shareholders appoint a small body constituted of the leading shareholders who are known as the "commissarissen" (analogous in some respects to a committee of shareholders). The commissarissen are not legally answerable for the responsibility of their functions. They are simply there to supervise and report to the shareholders upon the activities of the "directeuren," to whom alone the complete management of the company's affairs with absolute legal responsibility is committed. The directeuren are virtually managing directors as we know them, and they alone perform every executive act, including the signing of cheques, contracts, etc. The commissarissen have power to veto any act of the directeuren which may come to their knowledge, but in that event they must call a meeting of the general body of shareholders to pronounce upon their action. The commissarissen receive no remuneration until a fixed rate of interest has been paid on the capital employed in the business out of profits, and then they receive a certain fixed proportion of the surplus profits available for dividend. They are nearly always the principal shareholders, and have every incentive to see that the company does well and that the directeuren do their duty.

One advantage of this system is that the responsibility for the company's management is very definitely fixed in the directeuren instead of being shared between the board of directors and the managing directors or managing director as at present in this country.

It may be that the interest of shareholders would be better served if the carrying on of a company's business be left to managers, selected for their technical skill and knowledge of the business, with the assistance and under the supervision of a committee of shareholders, consisting of members having substantial interests in the company and with no other object to serve than to watch the administration of their and their fellow shareholders' property. Under such a system the scales would be evenly held, and any disturbing tendency would become known at once to the principal shareholders.

I am the more inclined to make the foregoing suggestion as the committee at para. 53 of their report state, under the heading of "Directors' qualification":

> "Although this is in many cases illusory, we do not find ourselves able to recommend any alteration in the law."

Moreover, having regard to the state of the law as to directors' responsibility and to the limited functions which they perform, there seems little reason for perpetuating an office of this anomalous character, and it is thought that company administration generally would improve if the management and control of their affairs were in every case committed to an executive composed of persons qualified by technical skill and practical experience in the company's business and acting under the supervision of a committee of shareholders qualified and interested by a substantial personal holding in the company.

Section 26 deals with the device, adopted by company promoters in recent years, whereby a company, instead of making a direct issue to the public, sells a block of its shares to a promoter who himself offers the shares for sale to the public. Section 26 puts the company in such a case under similar obligations to those which would have been binding upon the company itself if it had made the offer, though it leaves the promoter making the offer under complete liability for any mis-statements of which he may have been guilty. The Bill does not, however, deal with the anomaly noticeable in recent years, of certain names appearing on such prospectuses as being "solicitors to the offer" or "brokers to the offer." This vague and misleading description should be prohibited. If a solicitor's or other professional man's name appears on the prospectus or particulars, it should be stated quite clearly for whom he acts and to whom he is responsible. Sub-section (3) of s. 26 puts the persons making the offer in the same position as directors of a company, and requires the company to state the net amount of the consideration to be received by the company in respect of the securities offered, and the place and time at which the contract for allotment may be inspected.

Section 27 prohibits the issue (except to existing share or debenture-holders or for the purpose of procuring underwriting) of an abridged prospectus with application forms annexed. The penalty for breach of this section is a fine not exceeding £500, which can be inflicted upon the company itself, though a fine upon the company in such circumstances is open to the objection previously made, namely, that its infliction operates as a further hardship upon the person who has been induced to become a shareholder.

### Exchange Manipulations.

Important as it is that directors and promoters should be punished for untrue statements in connection with public issues, it is just as necessary that they should be punished for making or causing to be made untrue statements for the purpose of manipulating the rise or fall of the company's shares when quoted on the Stock Exchange.

Another useful safeguard to shareholders would be to prohibit directors and other officers (including auditors and brokers) from dealing in their company's shares unless—

(1) All transactions be in their own name and not in those of nominees or agents, and

(2) The director or officer in question files with the secretary within one month after each transaction or series of transactions in his company's shares full particulars thereof, including the price at which bought or sold, with the further provision that the register containing these particulars shall be open to public inspection and that the secretary shall include with the directors' annual report to the shareholders particulars of all such share transactions by directors or other officers during the year under review.

As a director is a trustee for the company in the exercise of his powers he ought not to be allowed to make a secret profit by turning to account knowledge of which he becomes possessed in a fiduciary capacity or from the dissemination of "rumours" calculated to influence the market price of shares.

Section 28 requires a prospectus to give particulars of voting rights and previous dividends and an auditors' report on any business proposed to be purchased.

Section 29 requires the company to state on any public issue the amount to be raised for its immediate objects and prohibits an allotment unless that minimum is subscribed. It takes the place of, and is a great improvement upon, s. 85 of the 1908 Act, which merely required a statement of the amount on which the directors might proceed to allotment (which the directors nearly always fixed at a nominal figure).

Section 32 places a very dangerous power in the hands of directors, enabling them to water down a company's capital by issuing shares at a discount of not more than 50 per cent. below their nominal value or 10 per cent. below their market value. Full details of every such issue have to be given, but it is thought that the public will not view favourably any such operation which has in practice the same effect as a reduction of capital but without the safeguards attaching to the latter operation.

Section 34 imposes on a company the obligation to keep proper books of account which shall at all times be open to inspection by the directors (the first statutory recognition of this right). The directors are required to lay before the company annually a profit and loss account and a balance sheet and a report by the directors on the company's affairs, including dividend and reserve fund proposals. Any failure by a director to take all reasonable steps to comply with this section shall render him liable to imprisonment and fine, but imprisonment is not to be inflicted unless the court considers that the offence was committed wilfully.

### Investments in Subsidiary Companies.

Section 35 deals with the form of a balance sheet, but does not appear to go nearly far enough for the protection of shareholders. It requires to be stated under separate headings the preliminary expenses and the figure at which the goodwill stands in the books of the company. It also requires to be separately shown: shares in or amounts owing from subsidiary companies, together with a statement of how the profits and losses of the subsidiary company have been dealt with for the purposes of the accounts of the holding company, and how provision has been made for the losses of any subsidiary company, and how any such losses have been taken into account in arriving at the profits and losses of the holding company. Sub-section (5) of s. 35, which deals with this subject, is very obscure. Whilst its requirement of information is a step in the right direction, yet the absence of machinery for preventing the abuse against which it is aimed robs it of effective power. A far more useful provision would have been an absolute prohibition against the investment or loan by a company of more than, say, one-tenth of its issued capital in or to any one other company without the sanction of the company in general meeting based upon full and complete information. As the law stands at present, a shareholder may take shares in Company A, which obeys the law, but Company A may invest his money in Company B. The unfortunate shareholder has no control whatever over Company B or any means of compelling Company A to insist upon its full rights as a shareholder in Company B. A further abuse of this procedure is that very often the directors of the holding company are given remunerative positions in the subsidiary company, so that there is this temptation to the directors of the holding company to make improvident investments.

Generally speaking, it is very unfair on a shareholder who thinks he is making an investment of money in Company A, that his investment, without his consent and often without his knowledge, should be switched by an "omnibus" investment clause into Company B, and perhaps thence into Company C, whose activities and destiny he can neither know nor control.

There is no clear definition of what is a subsidiary company for the purposes of the Bill, though examples given are where the holding company holds more than 50 per cent. of the issued share capital or is entitled to more than 50 per cent. of the voting power, or has power directly or indirectly to appoint or nominate the majority of the directors, but the Bill does not state that no company outside these examples can be treated as a subsidiary company.

Section 38, which amplifies the requirements as to registration of mortgages and charges, is another example of obscurity. Sub-section (1) (*a*) (i) refers to a mortgage or charge on goodwill or trade mark. It is difficult to understand how either of these pieces of property can be the subject of a mortgage or charge.

Section 39 deals with the position on the appointment of a receiver and manager, but it does not lay down, as it might usefully have done, what is the effect on the board of directors when a receiver and manager is appointed, for example, by debenture-holders. The Bill might usefully prescribe that the receiver and manager is to perform all the functions and have all the responsibility of the directors whose functions in the meantime should cease in order to avoid dual control. A further provision might advantageously be made that if a receiver and manager is not discharged by payment or arrangement within twelve months of his appointment, the company should go into liquidation automatically, unless the court for good cause shown orders to the contrary.

Section 40 gives power to the liquidator to obtain accounts from a receiver or manager, and to have his remuneration fixed by the court. Similar powers should be conferred upon the directors where the company has not gone into liquidation.

Section 43 contains some useful provisions for the purpose of strengthening an investigation into companies' affairs by Board of Trade inspectors, but is in many respects obscure and complicated. With regard to offences, the following difficult and dilatory procedure is laid down:—

(1) The inspector reports to the Board of Trade.

(2) If the Board of Trade considers that any person has been guilty of an offence and that the case is one in which the prosecution ought to be undertaken by the Director of Public Prosecutions, the Board shall refer the matter to the latter official.

(3) On such reference the Director of Public Prosecutions is to consider whether the case is one in which a prosecution ought to be instituted, and further whether it is desirable in the public interest that the proceedings in the prosecution should be conducted by the Public Prosecutor.

(4) If his opinion on both points is in the affirmative, he is to institute proceedings, and thereupon all officers of the company, other than the defendant, are to give all assistance in connection with the prosecution (without the usual saving for "incrimination"). For the purposes of such prosecution the bankers, solicitors, and auditors of the company are to assist the Public Prosecutor and presumably the usual professional "privilege" is lost.

Section 47 provides for an order to compel compliance with the obligation to file any return, account or other document, but does not lay down what is to happen in the case of disobedience. It will be useful to provide that disobedience shall be treated as a contempt of court, and punishable accordingly.

Section 54 deals with winding up, and introduces the novelty of giving the court power to appoint a private individual to act as the official receiver for all the purposes of the Companies (Consolidation) Act, 1908, with regard to any particular company.

Section 56 introduces another novel principle, namely, the power to the court to make a vesting order in favour of the liquidator by his official name, thereby divesting the company of the property in question and giving the liquidator power to bring or defend in his official name any action or other legal proceeding relating to that property.

### Creditors' Control of Liquidations.

Section 61 remedies a present anomaly in winding up, namely, that the appointment and remuneration of the liquidator and the control of the liquidation was in the hands of the shareholders, notwithstanding that in the majority of winding up cases the creditors are primarily concerned. It is now to be provided that unless the directors make a statutory declaration that in their opinion, following a full inquiry, the company will be able to pay its debts in full within twelve months, the company must call a meeting of its creditors for the same day or the day following that on which a resolution

for winding up is to be proposed, and the two sets of notices are to be issued and gazetted simultaneously. The directors are to lay a full statement of the company's affairs before the creditors' meeting, and the creditors are to have the first right of nominating the liquidator, and the shareholders can only do so in default of the creditors making their appointment. Power is given to the court to determine any dispute with regard to the nomination, provided application be made within seven days after the date on which the nomination was made by the creditors. Provision is made for the appointment of a committee of inspection to act with the liquidator, and both the creditors and the shareholders may appoint members thereof, though the creditors are given an overriding control as to the composition of the committee, subject to the direction of the court in case of dispute.

Section 62 gives a useful power to the liquidator of a company to disclaim onerous property or interests by analogy to the similar power given to the Official Receiver or Trustee in Bankruptcy, and provisions are made for safeguarding the rights of persons thereby prejudiced.

Section 63 prevents in certain cases one creditor getting an advantage over the general body of creditors by depriving such creditor of the benefit of any execution or attachment as against the liquidator, unless the execution has been completed before the commencement of the winding up, and also provides that where an execution has been levied against a company on a judgment exceeding £20 the sheriff is to pay the proceeds to the liquidator if a winding up order be made within fourteen days, during which time the proceeds are to be retained by the sheriff.

### Criminal Offences arising in Liquidation.

Section 66 provides for the punishment by imprisonment of any officer of a company in liquidation who has by fraud induced any person to give credit to the company or who has made any fraudulent gift or transfer of, or charge on, or connived at the levying of an execution against, the property of the company, or who has fraudulently concealed or removed any property of the company.

Section 67 lays down a long list of acts which when committed by any officer of a company in liquidation constitute offences for which punishment up to five years' penal servitude may be inflicted. Examples of these are :—

(*a*) Omitting to disclose the company's property.

(*c*) Omitting to deliver up the company's books, etc.

(*e*) Fraudulent removal of any part of the company's property.

(*f*) The making of any material omission in a statement relating to the affairs of the company.

(*g*) Allowing a false debt to be proved against the company.

(*i*) Concealing, destroying, mutilating or falsifying any book or document.

(*l*) Attempting to account for any part of the property of the company by fictitious losses or expenses.

(*o*) Pawning, pledging or disposing of (other than in the ordinary way of business) any property of the company obtained on credit and not paid for.

Section 68 renders a director or other officer of the company liable on conviction to imprisonment for a term not exceeding one year if it be shown that proper books of account were not kept throughout the period of two years immediately preceding the winding-up, and that such director or other officer was a party to the default. This section seems to make it advisable that the books of the company shall be laid by the secretary or auditor before the directors at every board meeting.

Section 69 introduces another novel provision to meet fraudulent trading. It gives the court power to order that any director, past or present, knowingly a party to the carrying on of the business of a company with intent to defraud, shall be personally responsible, without any limitation of liability, for all or any of the debts of the company. Moreover, by the same section any such offending director is liable on conviction to imprisonment for a term not exceeding one year. The court is given the further power to prohibit any such person from being concerned in the management of a company for a period not exceeding five years, under penalty on conviction for disobedience to imprisonment for a term not exceeding two years.

Section 71 also deals with the prosecution of delinquent directors and is, in certain of its provisions, open to the same objection of obscurity, complexity and delay as is s. 43, *supra*, dealing with prosecutions following investigations by Board of Trade inspectors. For example, the procedure laid down in the case of a voluntary winding-up is as follows :—

(1) If it appears to the liquidator that any officer has been guilty of a criminal offence, he shall report the matter to the Director of Public Prosecutions.

(2) Where any such report is made to the Director of Public Prosecutions, the latter may, if he thinks fit, refer the matter to the Board of Trade for further inquiry.

(3) The Board of Trade shall thereupon investigate the matter.

(4) If the Board, after investigation, think it expedient they may apply to the court for an order conferring on the Board, or any person designated by the Board, all such powers of investigating the affairs of the company as are provided in the case of a winding-up by the court.

(5) If on any report to the Director of Public Prosecutions it appears to the latter that the case is not one in which he ought to take proceedings, he shall inform the liquidator, who may thereupon take proceedings himself.

Where a prosecution is determined upon by the Director of Public Prosecutions, he is given power to apply to the court to compel assistance by any person, including the banker, solicitor, or auditor of the company, and once again professional privilege seems to be excluded.

Whilst it is unquestionably right and proper that fraudulent directors should be punished with the utmost rigour of the law, yet the legislation on the subject seems likely to become so complicated and expensive to administer as to enable many wrongdoers to escape, or, on the other hand, to involve innocent persons in heavy cost in order to prove their innocence, and for want of necessary means injustice may be done. It seems fair that provision should be made that any person against whom criminal proceedings are thus taken, and who is acquitted thereon, shall be entitled to his costs, either from the person instituting the prosecution or from public funds, if the court thinks fit so to direct.

### Directors' Civil Responsibility.

Section 72 renders void any provision in the articles of a company or of any contract exempting or indemnifying any officer in respect of liability for negligence, default, breach of duty, or breach of trust. This section, no doubt, is the result of the decision in the *City Equitable Case*, *supra*. The court, however, still has power under s. 279 of the 1908 Act to grant relief for negligence or breach of trust where a director has acted honestly and reasonably, and this section is extended by sub-s. (2) to the managers and officers of the company. Sub-section (3) gives the court power, where it considers s. 279 ought to be applied, to withdraw a case against a director or other officer from the jury.

Sub-section (4) of s. 72 introduces the novel provision that a person who has reason to apprehend a claim against him may himself apply to the court for relief, but provision should be inserted in order to prevent such an application being heard in the absence of the person likely to make the claim.

### Loans to, and Remuneration of, Directors.

Section 73 comes back to the question of accounts referred to in the earlier sections, and compels a company to inform its shareholders as to the details of certain loan transactions between the company and a director. It would have been better if such transactions had been forbidden except by leave of the court, just as a trustee has to obtain the leave of the court in order to enter into a transaction with his *cestui que trust*.

Section 74 introduces the new provision that the directors shall, if required by a resolution of the company, furnish details of their remuneration or other emoluments (including remuneration received from any associated company and including any income tax or super-tax paid in respect of such remuneration). This section is designed to meet a glaring mischief of recent years. Although it is true that both articles and prospectus must indicate the directors' remuneration, that requirement is in practice easily eluded by a clause which entitles the directors to appoint their members to other offices of profit in the company and to fix their remuneration. Sometimes this results in an orgy of expenditure of which the shareholders may suspect much but are told little. In the case of one company which has come under the writer's notice recently there are nineteen directors. The articles provide that they shall receive no remuneration as directors, but that they may all be employed as salaried managers. They thus, as directors, fix their own remuneration as managers at amounts which the shareholders never know. As at each meeting they have the machinery for obtaining and do obtain large numbers of proxies, no resolution could ever be passed against them for disclosure as provided by this section. The only effective protection for shareholders against excessive appropriation by the directors to their own use of the funds under the directors' own control is to provide that no remuneration beyond that stated in the company's articles and prospectus shall be drawn by the directors unless approved in advance by a special resolution of the shareholders for the passing of which the directors shall not solicit proxies. If an individual desires to be appointed to a highly remunerated position in a

# THE SOLICITORS' JOURNAL

AND WEEKLY REPORTER.

PUBLISHED EVERY SATURDAY. PRICE ONE SHILLING.



## TO THE LEGAL PROFESSION.

AN extensive series of brilliant Articles on important aspects of various branches of law, by some of the most eminent authorities of the day, will appear exclusively in this Journal. The first series include:

Mr. ALEXANDER MACMORRAN, M.A., K.C. (Editor of Lumley's Public Health Act, Macmorran's Local Government, etc.).
Mr. E. P. HEWITT, LL.D., K.C.
Sir BENJAMIN CHERRY, LL.B.
Mr. J. F. W. GALBRAITH, K.C., M.P.
Sir TRAVERS HUMPHREYS (Senior Treasury Counsel).
Mr. R. C. MAXWELL, B.A., LL.D.
Mr. R. A. GLEN, M.A., LL.B.
Mr. A. J. FELLOWS, B.A. (of Lincoln's Inn).
Mr. T. BOURCHIER CHILCOTT (of Lincoln's Inn).
Mr. ALBERT LIECK (Chief Clerk, Marlborough Street Police Court).

A Series of weekly Articles on "Highways," "Private Streets," "Commissions of Sewers," "Sewers and Drains."
"Trade Unions and the Law."
"Lord Birkenhead's Acts."
"Deposits on Sale of Land."
"Some Modern Criminal Legislation."
"The Conduct of Local Public Inquiries."
"Some Legal Aspects of Town Planning."
"Large Landowners and the Companies Acts."
"The Companies Bill."
"Conveyance of Land subject to Trusts for Charitable Purposes."
"The Effect of the Great War on Criminal Legislation."

This list will be extended, and further particulars published from time to time.

## The Points in Practice department of the paper will be of the greatest service to you.

**Extracts from some appreciatory letters typical of the many we have received from Subscribers:—**

"We thank you for your letter of the 8th instant, with enclosure, and are much obliged by the prompt reply to our inquiry."
COLCHESTER. 10th August, 1927.

"We thank you for forwarding us a reply to our query which gives us the information we require. We appreciate your having sent us a reply in advance of publication."
BURY ST. EDMUNDS. 17th August, 1927.

"Please pardon our delay in acknowledging your letter of the 24th instant. We are extremely obliged to you for the very helpful assistance that you have accorded to us so promptly."
LONDON, W.C.1. 30th August, 1927.

"We thank you for your letter of 31st August, which came to hand this morning. Your replies to our queries will be very helpful to us."
HUDDERSFIELD. 3rd September, 1927.

"We thank you for your letter of the 1st inst. with answer to our query, and wish to express our appreciation of the prompt attention you have given to the matter."
NOTTINGHAM. 3rd September, 1927.

"We are much obliged to you for your answer to our inquiry, which we think will meet the case very well."
NEWARK-ON-TRENT. 7th September, 1927.

"I am much obliged for your letter of the 5th instant accompanying a reply to the query which I sent to you recently."
WEST BROMWICH. 7th September, 1927.

"... We find your 'Points in Practice' columns most interesting and useful."
CIRENCESTER. 8th September, 1927.

"I am very much obliged for your letter of the 19th instant, which will assist me in dealing with the contention of the lessor's solicitors."
LONDON, S.W.1. 20th September, 1927.

"I am much obliged to you for your letter of the 27th enclosing, prior to publication, a reply to my query. I quite agree with the reply."
HUDDERSFIELD. 28th September, 1927.

"I am much obliged to you for your letter of the 27th inst. sending me, prior to publication, a reply to my query on income tax."
BRADFORD. 28th September, 1927.

"I am in receipt of your letter of the 28th inst., enclosing answer to my 'Practical Point,' which will be very helpful to me, and for which I thank you."
HENDON, N.W.4. 30th September, 1927.

"I am very much obliged by your letter of yesterday's date enclosing further reply to my query as to a purchaser taking over a vendor's existing fire insurances."
NORWICH. 1st October, 1927.

All inquiries should be forwarded to:—

THE ASSISTANT EDITOR,
"SOLICITORS' JOURNAL,"
EDITORIAL DEPARTMENT,
94-97, FETTER LANE, E.C.4.

TELEPHONE: HOLBORN 1853.

company, he should not seek election to the fiduciary position of director, whose duty is to control all expenditure, including his own salary.

Section 76 wisely prohibits an undischarged bankrupt from taking part in the management of a company except by leave of the court by which he was adjudged bankrupt.

### Auditors.

Section 78 deals with the important subject of auditors. The position of an auditor is very unsatisfactory and the Bill does little to improve it. The auditor as such has no part in drawing up the balance sheet and profit and loss account. The latter have to be drawn up and signed in the first instance by the directors themselves. All the auditor considers he can do is to say whether the figures in the balance sheet and profit and loss account accord with those in the company's books. He may suspect that there is something wrong, but beyond giving a qualified certificate couched in language which conveys nothing to the average shareholder, he usually considers he can do no more. He is, in theory, the appointee of the shareholders. In practice, however, he owes his position to the directors. If the shareholders are to receive any real protection from auditors and be saved from the losses so notorious in recent years, provisions to the following effect should be inserted in the Bill :—

(1) The directors should be prohibited from taking any part directly or indirectly in the selection or appointment of auditors.

(2) The appointment of auditors should be made or renewed each year at a private meeting of the fifty largest shareholders in the company (excluding the directors), specially convened for that purpose, and presided over by one of their number.

(3) The auditors shall themselves decide the form in which the profit and loss account and balance sheet shall be submitted to the shareholders.

(4) It should be the duty of the auditors to report on any special or unusual matter adversely affecting the interest of the shareholders which may come to their notice in the course of the audit, and in particular whether in their judgment any dividend or bonus proposed by the directors is justified by the state of the company's accounts and finances.

Section 85 goes back to the restrictions on offering of shares for sale or subscription, and prohibits the offering of shares "from house to house." The construction of the quoted phrase is not made easier by the statement in the Bill that "the expression 'house' shall not include an office used for business purposes." The "definition" sub-section is rather weak, declaring as it does that "shares" includes bonds, debentures, debenture stock and other securities. There are very few persons who can successfully act as pedlars in shares, and it does not therefore seem worth while to aim at this small class when it is the large-scale operator who does the real mischief. A person or company acting in contravention of this section or in the sale of shares already on the market without furnishing certain prescribed particulars (set out under sub-headings (*a*) to (*i*)), is rendered liable to imprisonment and fine. Sub-section (8) gives power to the Criminal Court convicting any person under the section to order that any contract made as a result of the offending offer shall be void. As, however, the Criminal Court seldom has the facilities for drawing up a Civil Order, the Act might usefully provide that any such order shall be drawn up by the registrar of the companies department of the Supreme Court.

The foregoing summary of and commentary on the proposed changes cannot of necessity deal, as I should like, with the whole of this subject. All I can hope to do in this paper is to call attention to the most novel and revolutionary of the contemplated changes and suggest for the consideration of the Society other directions in which this important branch of the law may be still further strengthened and codified for the protection of the investing public and of the commercial community generally.

The President pointed out that he had in his inaugural address dealt with some part of the subject which had been referred to by the reader of the paper. A powerful committee consisting of many eminent members of the profession, both in London and the country, had considered the Bill, and as a result of their representations many amendments had been made in the draft Bill. He did not think the subject could be adequately dealt with at the meeting.

Mr. C. E. Barry (Bristol) said that one point apparently not dealt with by the Bill was of importance to the community. That was that, where a receiver was appointed by the court he was responsible for orders given by him to traders for goods used in carrying on the business, whereas if, as was often the case, he was appointed under the powers given by the debenture deed, he was not responsible for debts. He was then agent for the company. He (Mr. Barry) had known cases where members of the trading community had suffered very much from this cause. It was a point which ought to be dealt with in any amendment of the company law.

Mr. Edward Bell (London) stated he must respect the time allowance prescribed by the President. He ventured the opinion that aggressive legislation directed against joint stock companies should be modified, as this class of legislation operated in restraint of trade! There should be no constructional laws which set out to control industry. If a company were properly conducted, it should be allowed to manage its own affairs without interference by the State, with all its legislative "earthquakes, roaring seas, and thunders"! He believed discretional legislation was all that was necessary, predicating for example the effect and scope of liquidations in the winding up of insolvent and otherwise defaulting companies. The President had told them a strong Law Society committee had considered, and was considering this subject; he observed, sitting in that Council Chamber, certain high authorities who had influential effect on forthcoming legislation. Might he therefore venture to suggest discretional legislation which would provide machinery for the more effective control of voluntary liquidation.

Mr. E. R. Cook (Secretary of The Law Society) referred to that portion of Mr. Nordon's paper which ran as follows: "For the purpose of such transaction the bankers, solicitors, and auditors of the company are to assist the Public Prosecutor, and presumably the usual professional privilege is lost." He said the Society had been received by the Lord Chancellor and the Board of Trade with every courtesy in their representations with regard to the matter, and in connexion with the many amendments they had submitted. A clause of the Bill had been framed to meet the difficulty which Mr. Nordon had referred to.

Mr. E. Melliar Smith (London) expressed his pleasure at the statement made by Mr. Cook. The subject of Mr. Nordon's paper, he said, required very serious consideration.

### Votes of Thanks.

A number of votes of thanks were passed to the Sheffield Law Society, its president and vice-president, and particularly to Mr. C. Stanley Coombe, the hon. secretary; also to the Lord Mayor and Lady Mayoress and to many others who had assisted in making the meeting a success.

### Degree Congregation.

Later in the day a degree congregation was held at the University of Sheffield when honorary degrees were conferred by the Vice-Chancellor, among them being the degree of LL.D. on the Lord Chief Justice, the President of The Law Society, the President of the Sheffield Law Society, and Sir William E. Hart (Town Clerk of Sheffield).

In the afternoon visits were paid by the members to some of the largest works in the City, and in the evening seats were reserved at the Lyceum Theatre for the performance of "Aloma." On Thursday there were three alternative excursions to "The Sheffield Water System," "The Dukeries," and "Beautiful Derbyshire"; and in the evening a smoking concert was held at Cutlers Hall, the final event of the gathering.

### Banquet.

A banquet took place on Tuesday evening at the Victoria Hotel, Mr. Edward Bramley (President of the Sheffield Incorporated Law Society) taking the chair. Among the guests were The Right Hon. Lord Hewart (the Lord Chief Justice), Mr. Justice Eve, Sir Thomas Inskip, K.C. (the Solicitor-General), Sir Claud Schuster, G.C.B., K.C., Sir William Ellis, G.B.E., J.P., Lieut. Col. H. K. Stephenson, D.S.O., LL.D., J.P., D.L., Sir William E. Clegg, J.P., His Honour Judge Lias, Sir William E. Hart (Town Clerk of Sheffield), Sir W. Henry Hadow, C.B.E., M.A., D.Mus., LL.D., J.P. (Vice-Chancellor of the University of Sheffield), Sir Robert W. Dibdin, Sir Samuel Roberts, Bart., M.P., Mr. Cecil Allen Coward (President of The Law Society), The Lord Mayor of Sheffield, The Lord Bishop of Sheffield, D.D., Sir William Bull, Bart., M.P., Sir A. Copson Peake, LL.D., His Honour Judge Turner, The Master Cutler, Mr. R. M. Welsford (Vice-President of The Law Society), Mr. E. R. Cook (Secretary of The Law Society), Mr. Walter N. Drew, Mr. F. B. Dingle (Vice-President of the Sheffield District Incorporated Law Society), Mr. William P. Harding, O.B.E., and Mr. C. Stanley Coombe (Hon. Secretary Sheffield District Incorporated Law Society).

Mr. Justice Eve proposed the toast "The Law Society." He said he was second to none in the sincerity of his respect for and goodwill towards the Society, remembering the many occasions on which they had assisted the administration of justice and conscious of many uninvited and wholly voluntary services they had rendered to the commonwealth and the Legislature. Commencing something more than a century ago, its objects were the persistent pursuit of integrity and of that which was of good repute; by its consistent efforts to

protect by all legitimate means the profession of the attorney, it had won not only the gratitude of the whole legal profession, but it had earned, and, he ventured to assert, retained, the respect of the public at large, and in particular that portion of the public to whom was deputed the responsible duty of exercising statutory and disciplinary powers of the most important nature. To-day it occupied the impregnable position of an institution which had justified its existence, and which had fulfilled, and was fulfilling, its purpose, and to whom its history—as the history of many kindred institutions—afforded an illustration of the innate capacity of our race for managing and directing our own domestic affairs without the interference and free from the restraint of the officials of a too zealous bureaucracy. That that position could not have been attained, or those ends reached, without the assistance of those who had administered and conducted its affairs went surely without saying. In conclusion he said that two cooks were necessary to ensure the success of these yearly gatherings, and the other was Mr. Cook, the capable and energetic Secretary of The Law Society. (Applause.)

The PRESIDENT OF THE LAW SOCIETY returned thanks, tracing the development of the Society from its early origin to the granting of a Charter in 1845, which was the Charter under which the Society existed to-day. He observed that there were 10,000 members of the Society out of the 15,000 solicitors on the rolls. The Society had gone on and had prospered in some ways, and it had now greater privileges than ever it possessed before, particularly in regard to the Society's disciplinary power over solicitors.

Sir SAMUEL ROBERTS, Bart., M.P., gave the toast "The Bench and the Bar," reminding the solicitors present of the tremendous changes that had taken place in the law of property in this country, in which as a legislator he had assisted, and he wondered how many Members of Parliament had read them. The only person who really knew the Law of Property Acts was Sir Benjamin Cherry, and when he passed away it seemed to him that no one would know anything at all about them. He was very thankful he was one of those who had to make the law, and not one who had to read it. In the English Bar they had something in which ability alone would not carry a man through unless he had truth and honour. The Bench was looked up to all the world over as the highest system of legal honesty and legal efficiency that had ever been known. (Applause.)

The LORD CHIEF JUSTICE responded. He recalled the last occasion on which he visited Sheffield, a few months ago, in company with the late Mr. Justice Fraser, a distinguished and lovable judge, if ever there was one, who had now too early passed away. On that occasion, addressing the members of the Law Students' Society, Mr. Justice Fraser asked them never to forget that theirs was the profession of a gentleman. Since then, he (Lord Hewart) had been to Canada and America and had travelled 20,000 miles. The object of that visit was to meet two such associations as The Law Society. One was the Canadian Bar Association, which met at Toronto, and the other was the American Bar Association, which met at Buffalo. There was not one man present at either of those great assemblies who did not preserve the most agreeable recollection of their visit to England, and they charged him to say that they were looking forward with the greatest pleasure to the return visit which the English lawyers were going to pay them. (Applause.) If there was anything that could possibly have enhanced in his mind the sense which he had of the dignity, the usefulness, the efficiency, and the service of this great profession which they all loved and to which they were proud to belong, it was to see the work which their Canadian brethren were doing. He found there a great united body of gentlemen, separated indeed, not by hundreds, but by thousands, of miles, but all of them holding aloft the banner of a great tradition—the healing principles of justice and freedom. Of all the links that bound the inhabitants of Canada for ever to this country by no means the least was the great profession of the law. Mentioning a reference earlier in the evening by Mr. Justice Eve to a too zealous bureaucracy, Lord Hewart said there was no passage in the address which he delivered to an audience of many thousands in Buffalo which excited more interest or more approbation than the passage in which he described faithfully, accurately, and with some detail, the encroachment of bureaucracy in this country. Those he was addressing had chosen the profession of the law because they loved it, knowing that in all essential respects it was the precise opposite to that which its acrimonious critics represented it to be. Its business was not to foment quarrels, but to compose them; not to create differences, but to prevent them. (Applause.)

The SOLICITOR-GENERAL returned thanks on behalf of the Bar. He said that the confidence which existed between the three branches of the profession was a very great factor in the administration of justice. He thought that it would be quite impossible for the Bench to perform its duties, and certainly impossible for the Bar to perform its duties, if the utmost confidence were not given by solicitors to those whom they instructed. He knew it was the custom to refer in mock deference to "the higher branch of the profession." He sometimes wondered what claim the Bar had to that title. Difficult as the duties of the Bar sometimes were, and anxious as they always were, it would be quite impossible that its members could prevail if they did not enjoy the confidence of so singularly generous a profession as that which entertained the gathering that evening.

The BISHOP OF SHEFFIELD proposing the toast "The City and University," said of one thing they were very proud in Sheffield, and that was that during the General Strike not a blow was struck or a window broken.

The LORD MAYOR returned thanks.

Sir HENRY HADOW (Vice-Chancellor of Sheffield University) also responded, suggesting that his profession claimed comradeship with that of the law. The business of the law was to abolish injustice and the business of educationists was to dispel ignorance. Both professions must die when the millennium came, but they expected a fair lease of life before that arrived.

Mr. EDWARD BRAMLEY submitted the toast of "The Visitors."

Sir CLAUD SCHUSTER, K.C., in responding, observed that in his daily work he constantly came into contact with The Law Society. The work of the Lord Chancellor's office could not be carried on properly if it were not that a continual succession of presidents brought to that work continual assistance, and if the provincial law societies in their turn did not assist in the bearing of the various burdens from time to time; and he wished to express his personal gratitude to the council of The Law Society, its secretary, and the provincial societies for the cheerfulness with which those burdens, more particularly in regard to the poor persons rules, had been assumed, and the work in connexion therewith efficiently performed.

The final toast, which was honoured with great enthusiasm, was that of "The Chairman," proposed by the Lord Chief Justice, Mr. Bramley returning thanks.

*(To be continued.)*


# VALUATIONS

MADE FOR

PROBATE, TRANSFER, FLOTATION, &c.

# INVENTORIES

OF

FIXTURES, FITTINGS, &c.

PREPARED FOR INSURANCE PURPOSES.

ESTABLISHED 1842.

*Telegraphic Address:* "BEESONIC, CENT, LONDON."
*Telephones:* CITY 6311, 6312.

**Messrs. BEECROFT, SONS & NICHOLSON**

*Valuers, Fire Loss Assessors, &c.,*

12, WOOD STREET, LONDON, E.C.2.

# Centenary of the Incorporated Law Society of Liverpool.

MANY distinguished members of the Bench and Bar attended the banquet given at the Adelphi Hotel, on Wednesday evening last, to celebrate the Centenary of the Incorporated Law Society of Liverpool, which was not only a notable gathering of members of both branches of the legal profession, but of representatives of the civic and commercial life of the city. The President (Mr. J. Graham Kenion) presided, and was supported by the Lord Mayor (Mr. F. C. Bowring), Lord Justice P. O. Lawrence, Mr. Justice Eve, Mr. Justice Greer, Mr. Justice Rigby Swift, Sir Thos. R. Hughes (the Chairman of the Bar Council), Vice-Chancellor Courthorpe Wilson, K.C.

His Honour Judge Thomas, His Honour Judge Dowdall, Mr. E. G. Hemmerde, K.C. (the Recorder of Liverpool), The Vice-Chancellor of the University of Liverpool (Mr. H. J. W. Hetherington), Mr. C. A. Coward, LL.D. (the President of The Law Society), Mr. Stuart Deacon (Stipendiary Magistrate), Lieut.-Col. A. Buckley (President of the Liverpool Chamber of Commerce), Mr. W. H. T. Brown (Vice-President of the Liverpool Law Society), Mr. Edgar L. Billson, Mr. A. H. Coley, LL.D. (past President of The Law Society), Mr. P. J. Skelton (President of the Manchester Law Society), Mr. T. Moore-Dutton (President of the Chester and North Wales Law Society), Mr. A. E. Noon (President of the Liverpool Incorporated Accountants Society), Mr. G. H. Ashworth (President of the Liverpool Chartered Accountants Society), Mr. L. C. Bailey (Chairman of the Liverpool Stock Exchange), Mr. J. M. Davidson (President of the Liverpool Bankers Institute), Mr. E. R. Cook (Secretary of The Law Society), Mr. Henry G. Hope (Secretary of the Chester and North Wales Law Society), Professor Reilly (President of the Liverpool Architectural Society), Mr. William P. Harding, O.B.E., Mr. L. S. Holmes (Hon. Secretary, Liverpool Law Society), Mr. G. A. Richards (Secretary and Librarian, Liverpool Law Society), etc., etc.

The usual loyal toasts were honoured on the call of the President.

The PRESIDENT proposed "The Lord Mayor and City of Liverpool," speaking of the high qualities of Mr. F. C. Bowring for the office of Lord Mayor—qualities which had secured for him the signal honour of being elected Lord Mayor for two successive years. Nothing could have been more striking than the dignity of the civic welcome to the King and Queen when they visited the city recently to open the Gladstone Dock. As President of the Law Society he had been greatly impressed by the endeavours of the Lord Mayor to give financial assistance to the hospitals of the city, and on the occasion of his last appeal for help he (the President) took the opportunity of circulating that appeal to the profession, with the result that their contributions amounted to close upon £600. "We are citizens of no mean city," added the President; "we are proud of our city and proud of our Lord Mayor."

The LORD MAYOR, in response, said the President had reminded him that on the occasion of a certain public gathering he had made use of the observation "I owe much to the lawyers." (Laughter.) Without making any definite promise to pay, he would say that he would endeavour to pay, not so much by hard cash as by good will. (Laughter.) Remarking that the professions of lawyers and shipowners were amongst the most eminent in the city, the Lord Mayor said he would not attempt to lay down which was the most important, but on balance the lawyers had the best of it. (Laughter.)

"The lawyer never runs his business at a loss," he continued. "We Liverpool shipowners frequently sail our ships without a decent freight. We have to take such freights as are offered or lay our ships up. If we don't do that, our competitors in Manchester or some other town take all that is going. We have to go on hoping for the best. But the lawyer never knows what it is to have a slump. (Laughter.) Lawyers' fees are sure, and there is always the odd shilling to add to the pound to cover any odds and ends that may arise." (Laughter.)

While he would not suggest that there was any connexion between the number of lawyers in Parliament and the legislation that was carried through, yet when new laws were made, old ones were altered and others codified, might he ask who got the benefit? (Laughter.) It might be the public—on some occasions, but it certainly was the lawyer in many other cases. If a shipowner went to Parliament and advocated things for the benefit of himself and his fellow-sufferers, he would lay himself open to accusations of aiding and abetting his own interests. And that was something a shipowner would never condescend to do. (Laughter.)

Seriously, he as a business man admired the way in which lawyers kept their clients up to a high standard of business morality. They undoubtedly helped to create the tone which characterised the great city of Liverpool and its business interests. (Applause.)

In proposing the toast of "The Incorporated Law Society of Liverpool," Mr. Justice EVE said: An eminent and illustrious individual whose name and identity are wholly unknown to me, but who, I know, must be an eminent and illustrious individual, because he is in the employ as a reporter or purveyor of news, more or less accurate—(laughter)—of a certain daily journal, whose capacity for arranging and managing the affairs, not only of the universe —(laughter)—but of a humble individual like myself, is only rivalled by its veracity and guaranteed circulation—(laughter), and that gentleman has recently contributed to the newspaper aforesaid an article wherein after advising the Prime Minister and the Lord Chancellor as to the appropriate persons to be promoted to certain judicial offices, and referring incidentally to the patriarchal age of the members who constitute the Judicial Committee of the House of Lords, he has concluded by referring to those of His Majesty's judges, including myself, who are no longer in the bloom of their early youth.

He was good enough to confess that he was unable to diagnose in me any pronounced symptoms of senile decay, and he ended up by suggesting that in all the circumstances I might be able to "hold on" or "stick it" for another year—(laughter). Faced with this ultimatum I have been facing the inevitable. Your Lord Mayor was good enough to ask me where I lived, and I will tell you, it is mid-way between the Marylebone Workhouse, and the Cinerarium at Golders Green—(laughter)—and I have informed my landlady, from whom I rent what she calls the "second floor back," that upon the appointed day I shall have to retire to one of my lateral boundaries. (Laughter.)

Sir Thomas Hughes will regret to hear I have not paid my subscription to the law reports; instead of that I am entering into a contract for the acquisition under a hire-purchase agreement of thirteen volumes of St. Augustine's History of the Early Christian Fathers—(laughter)—all the volumes delivered on the payment of the first five bob—(laughter)—and instead of wasting my time in reading the unconvincing and uninteresting judgments of the Court of Appeal—(laughter)—I intend to devote it to a further study of the revised Prayer Book. (Laughter.)

When my year of grace has expired I shall do my best to prepare myself for those howls of vituperative welcome with which I shall be received by testators whose wills I have misconstrued—(laughter)—and whose benefactions I have diverted into channels which they never contemplated. (Laughter.)

But, with it all, I shall have this consolation, upon which I can reflect—unlike my brothers Swift and Greer and other members of the common law bench—no innocent man has ever been hanged because I have mistaken the executory devise for the shifting use. (Laughter.)

You will have gathered that I have neither the intention nor the wish to attend your bi-centenary—(laughter)—and if by chance any of you is asking in his mind how these observations are relevant to the purposes for which I have been called upon to address you, let him contemplate the ridiculous and Gilbertian position of a man condemned to die within the next twelve months by the Daily —— well, by a newspaper —(laughter)—called upon to propose a congratulatory address to a centenarian. (Laughter.)

But I will leave this unseemly levity, and in a few words of a serious nature, I will submit the toast which has been entrusted to me. When an individual is approaching the age when he may properly be regarded as venerable, our congratulations are all the more sincere, but they must inevitably be tinged with the saddening reflection that the end of a long life is rapidly approaching, and may indeed be saddened by the apprehension lest the lengthening shadows of night drawing gradually in narrowing circles round the loved form may not combine to bring about the loss of that virility and physique of mind which we have so long learned to admire, and which may ultimately mean that that which is may cease to be.

But to you, an institution such as this, our congratulations are unqualified. We have no apprehension for the future, because we realise that year by year your strength is restored, your vitality is refreshed, and your aims and ideals and purposes are revivified in those who are young, those whose lives and hopes and ambitions lie all before them, and whose advent to a society such as this is as refreshing as the morn was to those who have left their youth and much else behind them, and so it is without qualification and in all sincerity and without any mental reservation that in the course of nature our hopes cannot be fulfilled, we can, and do, in all sincerity wish you many, many happy returns of this auspicious and memorable anniversary. (Applause.)

Your Society was founded a few years before the passing of the first Reform Bill, and its birth was more or less contemporaneous with political emancipation and civic freedom. Had we any doubt that in the seventy odd years which intervened between the date of the birth and the close of that page in our history, which is spoken of as the Victorian era and which is more accurately described by Professor Morgan as the era of heroic enterprise, an era which would have scorned to change its inspired watchword of persistent industry, all its progress and all its enlarged liberty for any such ignoble or selfish slogan as "Safety first."

Can we not rest assured that during that long period of years this organisation, true to the traditions of this robust county and this enlightened city, never failed to do its duty or to fulfil the responsibilities which devolved upon it? If it were otherwise it would not have survived to-day as a potent and inspiring factor in our daily lives.

With fervent gratitude to those responsible for its being and to those who, during the century which has elapsed, have carried on with pardonable pride in the present and optimistic confidence in the future, I invite you to join with me in enthusiastically honouring the toast of our hosts to-night, "The Incorporated Law Society of Liverpool." (Applause.)

THE VICE-PRESIDENT (Mr. W. H. T. Brown) in proposing the toast, "Bench and Bar," said the profession was under a debt to the Lord Chief Justice for his observations at Sheffield last week on the growing practice in Acts of Parliament providing for decisions being made in certain matters by departmental note. This would have the tendency to partially close the doors of the courts to those who had hitherto been able to approach them with a surety of receiving justice.

It was outspokenness of this character, he declared, on the part of our judiciary which tended to make the law paramount and to put it on a pedestal which, by reason of the independence of the judges and the impartiality of their decisions, made the law of England pre-eminent amongst the nations. (Hear, hear.)

The Vice-President made a happy reference to the personalities and qualities of the many guests present representing Bench and Bar, and it was worthy of note that the mention of the name of His Honour Judge Thomas of Liverpool, elicited hearty and sincere applause. He spoke also of the part which the Bar played as cogs in the great machine which resulted in English law and justice being the envy of other nations.

Lord Justice P. O. LAWRENCE had a hearty reception on rising to respond. "Nothing affords me greater pleasure," he said "than to be here on this occasion by reason of the fact that it was in Liverpool I started my career. The toast of Bench and Bar has a significance in Liverpool. Liverpool seems to have been the training ground of many of those who have succeeded both at the Bar and on the Bench. (Hear, hear.) I recall that in 1882 when I first came to practise as an unknown junior in Liverpool, there were at the local Bar in this city, Pickford, Kennedy, Walton and Neville, the latter of whom I came to as junior. Those are the names of men who started in Liverpool and rose to judicial honours.

"It seems to me that there are many reasons why Liverpool was such a training ground for our branch of the profession—not only because it was a great shipping and commercial centre, but because the solicitors who then practised here, and who now practise, knew their job. They not only did their work to their own satisfaction, but they demanded of those whom they employed to represent them in the courts that they should act up to their own standards. (Hear, hear.) And you found in that way that men who came even unknown to Liverpool had their chance and received their due reward. It is a great source of gratification to me that I have this opportunity of expressing my gratitude at the support I received from the solicitors of Liverpool."

His lordship recalled that when he arrived in Liverpool in 1882 he received his first brief from Mr. Arthur Stanley Mather, the doyen of Liverpool solicitors, who was present at the gathering that night, and the fact that young barristers always received every encouragement when they localised in the city was one of the great advantages to the profession.

In a brief reference to his position on the bench—"We are all human and liable to err, as no one knows better than myself"—Mr. Justice LAWRENCE said that every member of the Bench tried to do his best and would uphold the traditions of the office in his endeavour to do so. (Applause.)

Sir THOMAS HUGHES, responding for the Bar, referred to his life-long acquaintance with the President, and said that the name of Kenion was one that was held in honour and affection by all Liverpool lawyers. (Hear, hear.) John Hamer-Kenion, the President's father, was one of the most loyal and generous friends the younger members of the Bar ever had. (Hear, hear.) The relations between the Bar and the Solicitors in Liverpool had always been of the most cordial and friendly character. Perhaps in the local Bar there was often a closer co-operation than was possible in London; certainly in Liverpool the relationship between them had been of the most friendly and delightful character. It was true to say that there had been no better training ground for the Bar than Liverpool, and the men whose names had been referred to proved that. (Hear, hear.) It would be invidious to refer to living men; still more so to those present that evening; but of those who had passed he recalled the names of Pickford, Walton, Kennedy and Neville, whose training ground was Liverpool, and to the solicitors of that city both Bench and Bar owed a deep debt of gratitude. (Hear, hear.)

Those who had been trained in Liverpool had attained great distinction and success, both at the Bar and on the Bench. It might be the climate, the refreshing north-westerly breezes that came across the Irish Sea, or it might be the robust Lancashire character which affected those even like Mr. Justice Lawrence, who came from a less favoured county, but one thing was certain, and that was that the Liverpool solicitors who had instructed them had an insight which enabled them to see the capacity of young untried barristers, all of whom owed an immense debt of gratitude to Liverpool. (Hear, hear.) That debt had been increased by the generous hospitality which had been extended to them that evening, and in the name of the Bar he thanked them most heartily and cordially.

The toast of "Our Guests" was enthusiastically honoured on the proposal of Mr. EDGAR BILLSON.

Mr. CECIL COWARD, President of The Law Society, in response, expressed the hope that the progress which the Liverpool Society had made in the last hundred years would be continued in the future.

Colonel A. BUCKLEY, Chairman of the Liverpool Chamber of Commerce, also replied. In the course of his career, he said, he had had two actions at law, one small and one big, and he won both. (Hear, hear.) Was it surprising, he asked, that he had the most profound respect and admiration for the wisdom, the justice and the impartiality of the law? As chairman of the Chamber of Commerce he wished to pay a tribute to the services that had been rendered to that body by members of the legal profession, notably Mr. Stuart Deacon, the present stipendiary magistrate, Mr. Harold Bateson, chairman during the whole war period, Mr. Forshaw Wilson, His Honour Judge Dowdall and Mr. Arthur D. Dean, all of whom had served as chairman of the Commercial Law Committee. He would like to place on record what the commercial community owed to the Law Society of Liverpool. Among other things, it had done much to simplify the international documents by means of which the commerce of the country was carried on. In congratulating the Society on its centenary he hoped that the success which had attended its efforts in the past to promote all that was best in the interests of the great profession would be valued in the years to come by those who followed.

Mr. Justice GREER proposed the health of the President of the Society, whom he described as the worthy son of a worthy father, and the able successor of a long line of notable Presidents. The toast was honoured with acclamation.

The PRESIDENT briefly responded, remarking that what the officers had done for the Society had been done for the good of the ship.

Before the gathering broke up there were loud calls for "Mr. Justice Swift," who was eventually persuaded to make a few observations. Everybody was acquainted, he said, with his modest and retiring disposition, which in days gone


# COURT BONDS.

The Bonds of the

**LONDON ASSURANCE CORPORATION**

are accepted by the High Courts of Justice, Board of Trade, and all Government Departments.

Fidelity Bonds of all descriptions are issued by

**THE LONDON ASSURANCE**

(INCORPORATED A.D. 1720)

**ASSETS EXCEED £11,000,000.**

FIRE, MARINE, LIFE, ACCIDENT.

ALL OTHER KINDS OF INSURANCE BUSINESS TRANSACTED. *Write for Prospectus*

1, KING WILLIAM STREET, LONDON, E.C.4.

MARINE DEPARTMENT: 157, LEADENHALL STREET, E.C.3.

by had been very much appreciated in the Liverpool County Court and Birkenhead Police Court, while at Bootle he was known as the quietest advocate who ever went there. (Laughter.) Therefore it would be appreciated how uncomfortable it was for him to have to address an audience like that. Still, he loved Liverpool, for he owed a great deal to Liverpool, and to Liverpool's lawyers who from 1895 to 1920 provided him not only with a livelihood but with all that made life worth living. He could never express what he owed to the city and to its solicitors.

# Legal Notes and News.

## Appointments.

Mr. KENNETH JAMES MUIR MACKENZIE, Barrister-at-Law (Attorney-General, Fiji), has been appointed a Judge of His Majesty's High Court of Tanganyika.

Mr. W. LAMACRAFT, New Romney, has been appointed Town Clerk of Lydd in succession to Mr. Charles J. Roberts, B.A., Solicitor, of Lydd and Folkestone.

Mr. JAMES KENNETH HOPE, Assistant Solicitor in the office of Mr. J. Bramwell Graham, Clerk of the Peace and Clerk of the County Council of Bedfordshire, has been appointed Deputy Clerk of the Peace and Deputy Clerk of the Durham County Council. Mr. Hope was admitted in 1922.

### SERVICE AT WESTMINSTER ABBEY,

WEDNESDAY, 12TH OCTOBER, 1927.

On the occasion of the re-opening of the Law Courts, a Special Service will be held at Westminster Abbey, at 11.45 a.m., which the Lord Chancellor and His Majesty's Judges will attend.

In order to ascertain what space will be required, members of the Junior Bar wishing to be present are requested to send their names to the Secretary of the General Council of the Bar, 5, Stone-buildings, Lincoln's Inn, W.C., before 4 p.m. on Tuesday the 11th October.

Barristers attending the Service must wear robes. All should be at the Jerusalem Chamber, Westminster Abbey (Dean's-yard entrance), where robing accommodation will be provided, not later than 11.30 a.m.

To avoid delay and to secure the necessary seating accommodation, members of the Junior Bar are requested to proceed to the Abbey and take their seats before the entrance of the Lord Chancellor and the Judges.

A limited number of seats in the South Transept will be reserved for friends of members of the Bar, to whom two tickets of admission will be issued on application to the Secretary of the General Council of the Bar.

No tickets are required for admission to the North Transept, which is open to the Public.

DOUGLAS MCGAREL HOGG,
Attorney-General.

### OPENING OF THE LAW COURTS.

A Votive Mass of the Holy Ghost (The " Red Mass ") will be said on the occasion of the re-opening of the Royal Courts of Justice on Wednesday, the 12th October, 1927, at 11.30 a.m., at which His Eminence The Cardinal Archbishop will assist. A robing room at the Cathedral will be placed at the disposal of counsel.

### WOMAN'S FORTUNE LEFT TO SOLICITOR.

After making bequests of £210 to charities and one of £1,000 to a doctor, Miss Elizabeth Davidson, of Ballymena, Co. Antrim, who died on 28th January, 1925, aged eighty-five, leaving estate valued at £38,439, left the residue of her property to Mr. Albert L. McClelland, solicitor, saying :—" I declare that in making him universal legatee and devisee my object has been to simplify the winding up of my estate, and to exclude any of my relatives from receiving any portion of my estate."

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

# Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 13th October, 1927.

| | Middle Price 5th Oct. | Interest Yield. | | | Yield with Redemption. | | |
|---|---|---|---|---|---|---|---|
| **English Government Securities.** | | £ | s. | d. | £ | s. | d. |
| Consols 4% 1957 or after | 85 3/16 | 4 | 14 | 0 | — | | |
| Consols 2½% | 55¼ | 4 | 10 | 6 | — | | |
| War Loan 5% 1929-47 | 102¾ | 4 | 17 | 6 | 4 | 18 | 0 |
| War Loan 4½% 1925-45 | 97¼ | 4 | 12 | 6 | 4 | 16 | 6 |
| War Loan 4% (Tax free) 1929-42 | 100⅛ | 4 | 0 | 0 | 4 | 0 | 0 |
| Funding 4% Loan 1960-90 | 85¾ | 4 | 13 | 0 | 4 | 14 | 0 |
| Victory 4% Bonds (available for Estate Duty at par) Average life 35 years | 94⅛ | 4 | 5 | 0 | 4 | 7 | 0 |
| Conversion 4½% Loan 1940-44 | 97 1/16 | 4 | 12 | 0 | 4 | 15 | 6 |
| Conversion 3½% Loan 1961 | 74 5/16 | 4 | 13 | 6 | — | | |
| Local Loans 3% Stock 1921 or after | 63½ | 4 | 15 | 6 | — | | |
| Bank Stock | 255½ | 4 | 13 | 6 | — | | |
| India 4½% 1950-55 | 94½ | 4 | 15 | 6 | 4 | 18 | 6 |
| India 3½% | 71¼ | 4 | 18 | 6 | — | | |
| India 3% | 61½ | 4 | 18 | 0 | — | | |
| Sudan 4½% 1939-73 | 94½ | 4 | 15 | 0 | 4 | 17 | 0 |
| Sudan 4% 1974 | 85¼ | 4 | 14 | 6 | 4 | 18 | 0 |
| Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years) | 80⅛xd | 3 | 15 | 0 | 4 | 12 | 6 |
| **Colonial Securities.** | | | | | | | |
| Canada 3% 1938 | 85 | 3 | 11 | 6 | 4 | 18 | 0 |
| Cape of Good Hope 4% 1916-36 | 92½ | 4 | 6 | 6 | 5 | 0 | 6 |
| Cape of Good Hope 3½% 1929-49 | 81 | 4 | 6 | 6 | 5 | 0 | 0 |
| Commonwealth of Australia 5% 1945-75 | 98⅞ | 5 | 1 | 0 | 5 | 2 | 6 |
| Gold Coast 4½% 1956 | 95¼ | 4 | 14 | 6 | 4 | 17 | 6 |
| Jamaica 4½% 1941-71 | 92 | 4 | 18 | 0 | 4 | 18 | 6 |
| Natal 4% 1937 | 92¼ | 4 | 7 | 0 | 5 | 0 | 0 |
| New South Wales 4½% 1935-45 | 90¾ | 5 | 0 | 0 | 5 | 7 | 0 |
| New South Wales 5% 1945-65 | 98⅝ | 5 | 1 | 6 | 5 | 3 | 6 |
| New Zealand 4½% 1945 | 95¾ | 4 | 14 | 0 | 4 | 17 | 6 |
| New Zealand 5% 1946 | 102¼ | 4 | 17 | 6 | 4 | 16 | 6 |
| Queensland 5% 1940-60 | 98 | 5 | 2 | 0 | 5 | 3 | 0 |
| South Africa 5% 1945-75 | 102¼ | 4 | 17 | 6 | 4 | 18 | 6 |
| S. Australia 5% 1945-75 | 99¼ | 5 | 1 | 0 | 5 | 2 | 0 |
| Tasmania 5% 1945-75 | 100¾ | 4 | 19 | 0 | 5 | 0 | 6 |
| Victoria 5% 1945-75 | 99¾ | 5 | 0 | 6 | 5 | 1 | 0 |
| W. Australia 5% 1945-75 | 99¼ | 5 | 1 | 0 | 5 | 2 | 0 |
| **Corporation Stocks.** | | | | | | | |
| Birmingham 3% on or after 1947 or at option of Corpn. | 63¼ | 4 | 15 | 0 | — | | |
| Birmingham 5% 1946-56 | 103¼ | 4 | 17 | 0 | 4 | 17 | 0 |
| Cardiff 5% 1945-65 | 101⅝ | 4 | 18 | 6 | 4 | 18 | 0 |
| Croydon 3% 1940-60 | 68¼ | 4 | 8 | 6 | 5 | 0 | 0 |
| Hull 3½% 1925-55 | 77¾ | 4 | 10 | 0 | 5 | 0 | 0 |
| Liverpool 3½% redeemable at option of Corpn. | 73¼ | 4 | 16 | 0 | — | | |
| Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn. | 53 | 4 | 15 | 0 | — | | |
| Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn. | 63¼ | 4 | 15 | 0 | — | | |
| Manchester 3% on or after 1941 | 63¾ | 4 | 14 | 0 | — | | |
| Metropolitan Water Board 3% 'A' 1963-2003 | 63¼ | 4 | 15 | 0 | 4 | 17 | 0 |
| Metropolitan Water Board 3% 'B' 1934-2003 | 64¼ | 4 | 13 | 6 | 4 | 15 | 6 |
| Middlesex C. C. 3½% 1927-47 | 82¼ | 4 | 5 | 6 | 4 | 17 | 0 |
| Newcastle 3½% Irredeemable | 73½ | 4 | 15 | 6 | — | | |
| Nottingham 3% Irredeemable | 62½xd | 4 | 16 | 0 | — | | |
| Stockton 5% 1946-66 | 101¾ | 4 | 18 | 6 | 4 | 19 | 0 |
| Wolverhampton 5% 1946-56 | 100¼ | 4 | 19 | 0 | 5 | 0 | 0 |
| **English Railway Prior Charges.** | | | | | | | |
| Gt. Western Rly. 4% Debenture | 82¼ | 4 | 17 | 0 | — | | |
| Gt. Western Rly. 5% Rent Charge | 99½ | 5 | 0 | 6 | — | | |
| Gt. Western Rly. 5% Preference | 94 | 5 | 6 | 0 | — | | |
| L. North Eastern Rly. 4% Debenture | 77 | 5 | 4 | 0 | — | | |
| L. North Eastern Rly. 4% Guaranteed | 72 | 5 | 11 | 0 | — | | |
| L. North Eastern Rly. 4% 1st Preference | 64 | 6 | 4 | 6 | — | | |
| L. Mid. & Scot. Rly. 4% Debenture | 81¾ | 4 | 18 | 0 | — | | |
| L. Mid. & Scot. Rly. 4% Guaranteed | 78¾ | 5 | 2 | 0 | — | | |
| L. Mid. & Scot. Rly. 4% Preference | 71½ | 5 | 12 | 0 | — | | |
| Southern Railway 4% Debenture | 80½ | 4 | 19 | 6 | — | | |
| Southern Railway 5% Guaranteed | 95¼ | 5 | 5 | 0 | — | | |
| Southern Railway 5% Preference | 87½ | 5 | 14 | 0 | — | | |

3, MOUNT STREET, LONDON, W.1.

# RALPH PAY & TAYLOR.

'Phones: GROSVENOR 1032/3. Telegrams: "RALPAYTAY, AUDLEY, LONDON."

**FORTHCOMING AUCTION SALE.**

## WOOD LEE, VIRGINIA WATER, SURREY.

### THIS IMPORTANT RESIDENTIAL PROPERTY OF 54 ACRES,

*Beautifully situated on high ground with panoramic views over wooded country; adjoining Windsor Great Park, close to Wentworth, Sunningdale and Ascot, and only 20 miles from Hyde Park Corner.*

THE SUBSTANTIALLY-BUILT MODERN RESIDENCE contains three Reception, Billiard Room and Loggia, eight Principal, nine Secondary Bedrooms and Servants' accommodation, four Bathrooms and cheerful offices, while it is fitted with company's water, electric light and gas, as well as central heating.

STABLING, THREE GARAGES and MEN'S ROOMS. LODGE and TWO COTTAGES. HOME FARM.

**VERY CHARMING GARDENS AND PARK**

with Dutch, Rose and Sunk Gardens, Pretty Walks, Borders, Shady Nooks, Orchard, Lake with Boathouse, and well stocked with fish, and some fine timber, in addition to numerous other delightful features. First-rate Golf and excellent social facilities. Hunting, and Fishing in the Lake and Virginia Water.

Long lease for SALE by AUCTION on the 25th October by RALPH PAY & TAYLOR, 3, Mount Street, London, W.1.
Vendor's Solicitors: Messrs. STEADMAN, VAN PRAAGH & GAYLOR, 4, Old Burlington Street, London, W.1.

## HAMPTON & SONS,

20, ST. JAMES'-SQUARE, S.W.1.
Telephone: Regent 7500.
Telegrams: "Selanlet, Piccy, London."
Branches: Hampstead: 'Phone 2727. Wimbledon: 'Phone 0080.

AUCTION SALES to be held at the
**ST. JAMES' ESTATE ROOMS, 20, ST. JAMES' SQUARE, S.W.1, on Tuesday next, 11th October, 1927.**

### HERTS, HADLEY WOOD.
**"HADLEY LODGE."**

A DELIGHTFUL OLD GEORGIAN HOUSE, standing 425 feet up on the fringe of an old-world common, and containing lounge hall, three reception rooms, billiard room, 12 bed and dressing rooms, two baths, and offices.
Central Heating, Company's Electric Light, Gas and Water, Main Drainage.
Garage, Glasshouse, Man's Accommodation, etc.
Old-world Gardens of great charm and park-like paddock, in all about 9 ACRES.
FREEHOLD, WITH POSSESSION.
Solicitors: Messrs. Bower, Cotton & Bower, 4, Bream's-buildings, London (Chancery-lane), E.C.4.
Particulars from the Auctioneers, Hampton & Sons, 20, St. James'-square, S.W.1.

### RICHMOND, SURREY.
Easy reach of river, promenade, terrace, park, golf courses, and other attractions.
**"LYNWOOD LODGE,"**
SHEEN-ROAD.
ATTRACTIVE LEASEHOLD RESIDENCE,
Approached by drive, and containing six bed rooms, dressing and bath rooms, lounge, and three reception rooms, conservatory, offices.
Garage, Stable, Studio or Garden Room.
Gas, Water, and Electric Light. Main Drainage.
Delightful walled Gardens of about HALF AN ACRE.
VACANT POSSESSION.
Solicitors: Messrs. Powell, Rogers & Merrick, 24, Hill-road, Richmond, Surrey.
Particulars from the Auctioneers, Hampton & Sons, 20, St. James'-square, S.W.1.

By Order of Executors.
### ENGLEFIELD GREEN, SURREY,
Close to Windsor Great Park, Eton College, River Thames, Polo Ground, Race and Golf Courses.
**"LIME LODGE,"**
OLD-FASHIONED FREEHOLD RESIDENCE,
In beautiful grounds of some 4¾ ACRES; on only two floors; six bed rooms, ante-room, hall, three reception rooms, conservatory and offices.
Company's Gas. Good Water Supply. Stabling, Man's Room, Greenhouses, etc.
Also at RUNNYMEDE, close to river.
PLOT OF RIPE BUILDING LAND.
VACANT POSSESSION ON COMPLETION.
IN TWO LOTS.
Solicitors: Messrs. Collisson Prichard & Barnes, 27, Bedford-row, W.C.1.
Particulars from the Auctioneers, Hampton & Sons, 20, St. James'-square, S.W.1.

## H. H. & J. ROBINSON,
F.A.I.,
Surveyors, Valuers, Auctioneers and Estate Agents,
42, CASTLE STREET, LIVERPOOL,
And at WATERLOO.

CAMBRIDGE: 27, Market Hill. OXFORD: 11, King Edward Street.
LONDON: 8, Suffolk Street, S.W.1.
## J. CARTER JONAS & SONS.
ESTABLISHED 1858.
Surveyors, Land Agents, Auctioneers

ESTABLISHED 1852.
## DRIVERS & NORRIS,
F.A.I.,
AUCTIONEERS, VALUERS, SURVEYORS, HOUSE, ESTATE AND FACTORY AGENTS
**407, HOLLOWAY RD., N.7.**
Telegrams: "DRIVERS, HOLLOWAY." 'Phone NORTH 1503 & 1504.

## PRICKETT & ELLIS
PERIODICAL SALES OF PROPERTY, REVERSIONS, INVESTMENTS, etc., at THE LONDON AUCTION MART, 155, Queen Victoria Street, E.C., also of FURNITURE, CHINA, SILVER, etc., at our Sale Rooms, 3, HAMPSTEAD LANE, HIGHGATE, N.
The best and most satisfactory way of disposing of Property and General Effects.
SALES OF FURNITURE AND GENERAL EFFECTS at Town and Country Houses.
**Valuations for Estate Duty and Division Purposes.**
**Inventories and Valuations of the Contents of Houses carefully made.**
MANAGEMENT OF HOUSE PROPERTY IN ALL PARTS.
SURVEYS FOR DILAPIDATIONS AND ASSESSMENT.
Offices & Business Premises to let & for sale in the Holborn, Strand, Fleet Street, Kingsway and Bloomsbury areas.
*Offices:*
**57, CHANCERY LANE, W.C.2, and HIGHGATE, N.6.**
Holborn 4830. Mountview 1569 and 0234. Estd. 1767.

## HARRODS, LTD.
**Auctioneers, Estate Agents, Valuers.**
Manager: OWEN WALLIS, F.A.I.
LOCAL OFFICE:
**WEST BYFLEET, SURREY.**
FURNITURE AUCTION GALLERIES:
**KNIGHTSBRIDGE.**
ESTATE SALE ROOM AND HEAD OFFICE:
**62-64, BROMPTON ROAD, S.W.1.**
TELEPHONE: SLOANE 1234.

Telephone: HOLBORN 584 (3 lines).
## WEATHERALL & GREEN
Surveyors, Valuers, Auctioneers, and Estate Agents,
**22, CHANCERY LANE, W.C.2.**
**SALES BY AUCTION.**
**VALUERS FOR ESTATE DUTY OF REAL ESTATE AND FURNITURE.**
RATING SURVEYORS. COMPENSATION VALUERS.
VALUERS OF LICENSED PROPERTY.

## E. FRYETT, F.A.I.
(30 years' City experience)
MANAGING DIRECTOR OF THE LONDON TRADE SALE ROOMS LTD.
**Valuations and Realisations of**
## TRADE STOCKS
Of every description.
## Office and Household Furniture.
**WEEKLY SALES held at**
**The LONDON TRADE SALE ROOMS, LTD.,**
**78-81, Fetter Lane, and 24-26, Holborn, E.C.**
*Buyers attend these Sales from all parts of the Country.*
*Bankers:* The National Provincial Bank, Ltd., 114, High Holborn, W.C.
Telephone (Private Exchange): Holborn 2633-4.

# CONSTABLE & MAUDE

ACTING FOR WEALTHY PROPERTY COMPANY WOULD BE GLAD
TO RECEIVE PARTICULARS OF

## FREEHOLD or LEASEHOLD ESTATES
## LARGE BLOCKS OF FLATS,

or other Sound Investments
within easy reach of West End or good-class Suburbs.

**Head Offices: 2, MOUNT STREET, W.1.**

**Branches: SHREWSBURY, HENDON, STOW-ON-THE-WOLD.**

## J. J. HILL & WEAVER,

**Auctioneers and Valuers of Licensed Property,**
28, THEOBALD'S ROAD, LONDON, W.C.1.
T. J. WEAVER, F.A.I. L. T. WEAVER, F.A.I.
J. J. HILL, F.A.I. F. WEAVER, F.A.I.
Telephone: MUSEUM 6086 and 6087. Founded 1867.
**Sales and Valuations for all purposes. Compensation Claims, Probate, Rating, &c.**

## NORFOLK STREET, STRAND.

Exceptionally Light Top Floor, comprising six good rooms. Handsome building with lift. Suitable for Solicitors, Architects, etc. Rental £370 per annum. Apply—

## BLAKE, SON & WILLIAMS,

**49, CHANCERY LANE, W.C.2.**

## PERIODICAL SALES.
ESTABLISHED 1843.

MESSRS. H. E. FOSTER & CRANFIELD conduct PERIODICAL SALES of
REVERSIONS (Absolute and Contingent),
LIFE INTERESTS and ANNUITIES,
LIFE POLICIES,
Shares and Debentures,
Mortgage Debts and Bonds, and
Kindred Interests,
on the FIRST and THIRD THURSDAYS in each month throughout the year, at THE LONDON AUCTION MART, 155, Queen Victoria-street, E.C.4.
Offices, 6, Poultry, London, E.C.2. Telegrams, "Invariably Stock, London." Tel. No. City 1296 (3 lines).

## PERIODICAL PROPERTY AUCTIONS.

MESSRS. H. E. FOSTER & CRANFIELD beg to announce that their PROPERTY AUCTIONS will be held at THE LONDON AUCTION MART, 155, Queen Victoria-street, E.C.4.
Vendors, solicitors and trustees having properties for sale are respectfully invited to communicate with the Auctioneers, at their Offices, 6, Poultry, London, E.C.2. Telegrams: "Invariably Stock, London." Tel. No. City 1296 (3 lines).

By order of Trustees of the Will of R. Chapman, deceased.

## STIMSON & SONS

will SELL by AUCTION at the LONDON AUCTION MART, 155, Queen Victoria Street, E.C., on THURSDAY, 27th OCTOBER, at 2.30 o'clock:—

## FREEHOLD GROUND RENTS
WITH VALUABLE REVERSIONS.

£13 per annum on The Crown Tavern, 35, Albert-embankment.
£14 per annum on Two Residences, 232 and 234, South Lambeth-road.
£20 2s. per annum on Four Residences, 35, 53, 54, and 59, Thorne-road, South Lambeth.
£9 1s. per annum on Three Residences, 2, 4, and 6, Lansdowne-gardens, South Lambeth.
£25 4s. per annum on Four Residences, 142, 144, 146, and 148, Railton-road, Herne Hill.
£44 10s. per annum on Twenty-five Houses, 241 to 289 (odd), Railton-road, Herne Hill.
£32 per annum on Five Houses, 93, 95, 97, 99, and 131, Dulwich-road, Herne Hill.
£15 per annum on Three Houses, 6, 8, and 10, Herne-place, Dulwich-road, Herne Hill.

## FREEHOLD PROPERTIES.

HOUSE, 87, Hercules-road, Lambeth-road. Let at 24s. 6d. weekly.
EIGHT HOUSES, 2, 3, 4, 8, 9, 10, 11 and 16, Berkley-street, Lambeth-walk. Let weekly, producing £465 per annum.
TWO HOUSES, 5 and 6, High-street, Lambeth. Let at 15s. 6d. each weekly.
THREE HOUSES, 17, 19 and 35, Durham-street, Vauxhall. Let at 19s. 6d. each weekly.

Particulars of the Solicitors: Messrs. Baylis, Pearce & Co., Bank-chambers, 116, Fore-street, E.C.2, and of STIMSON & SONS, 25, Ironmonger-lane, E.C.2, and 12, New Kent-road, S.E.1.

## FIELD & SONS,

**(Established over 100 years.)**
CHARTERED SURVEYORS,
AUCTIONEERS, VALUERS,
LAND & ESTATE AGENTS.
**AUCTION SALES at the MART MONTHLY.**
OFFICES:
54, BOROUGH HIGH ST., LONDON BRIDGE, S.E.1.
ABBEY HOUSE, VICTORIA STREET, S.W.1.

**To BUY or SELL**
MICROSCOPES,
TELESCOPES
WIRELESS APPARATUS,
CAMERAS, LATHES
JEWELLERY,
FISHING TACKLE,
FURNITURE,
PORCELAIN AND GLASS,
ANTIQUES,
CURIOSITIES,
ARMS AND ARMOUR,
BOOKS, NATURAL
HISTORY SPECIMENS.
**VALUATIONS UNDERTAKEN.**

*Telephone:* Gerrard 1824.
*Telegrams:* "Auks, Rand."
GO TO
## STEVENS'S
(Established 161 years)
PERIODICAL SALES.
Write, Call or 'Phone
STEVENS'S AUCTION ROOMS
LTD.,
**38, KING STREET, COVENT GARDEN, W.C.2.**


Printed by THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., at "Oyez" House, Fetter Lane, London, E.C.4, and Published at 94-97, Fetter Lane, E.C.4. ('Phone: Holborn 1853.) Agents—The United States and Canada: The Carswell Co., Ltd., 145-149, Adelaide Street West, Toronto 2, Canada; India: Higginbothams, Publishers, Mount Road, Madras, and R. Cambray & Co., 10, Hastings Street, Calcutta; Australia and New Zealand; "The Times," 255a, George Street, Sydney, N.S.W. Saturday, October 8th, 1927